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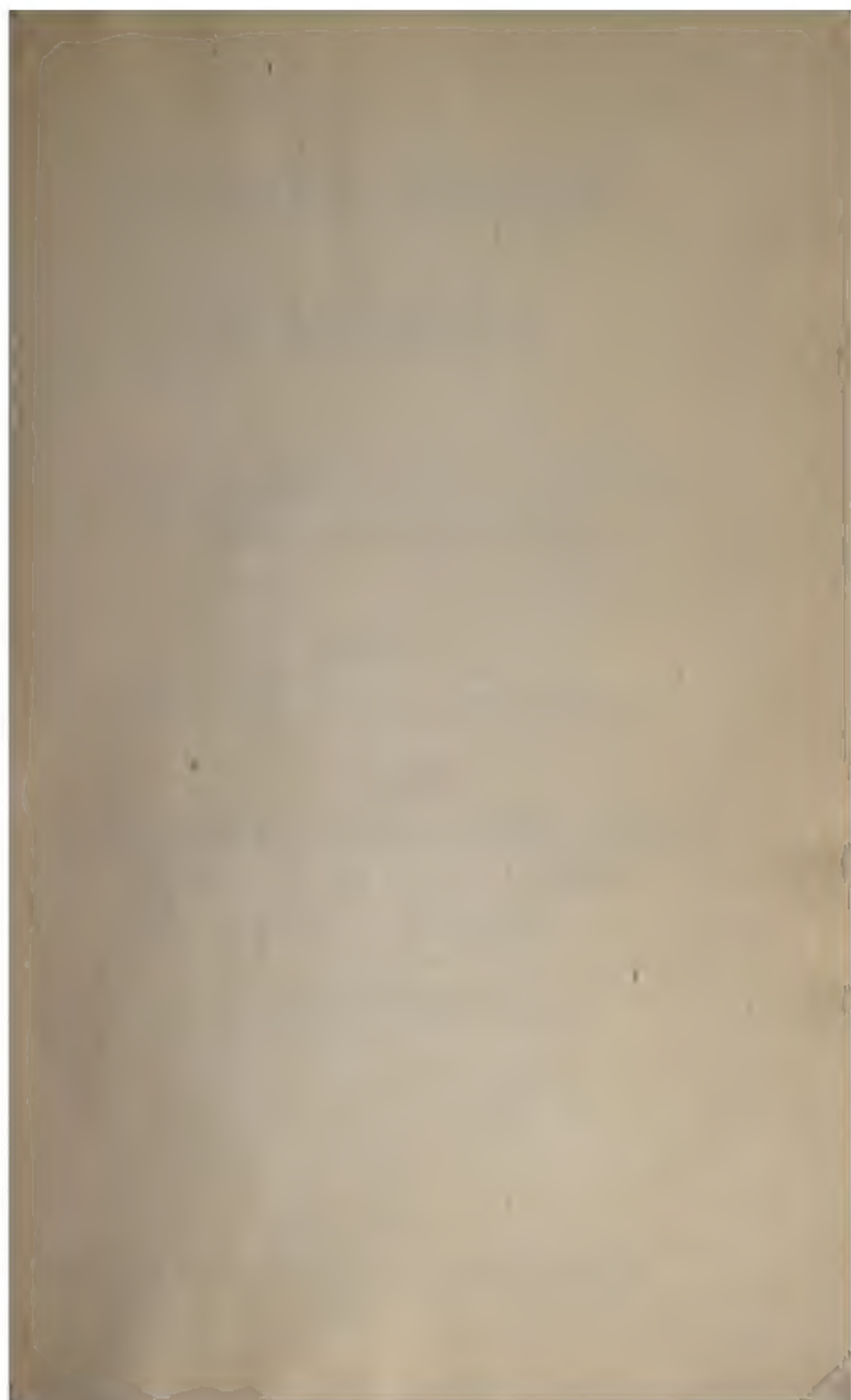


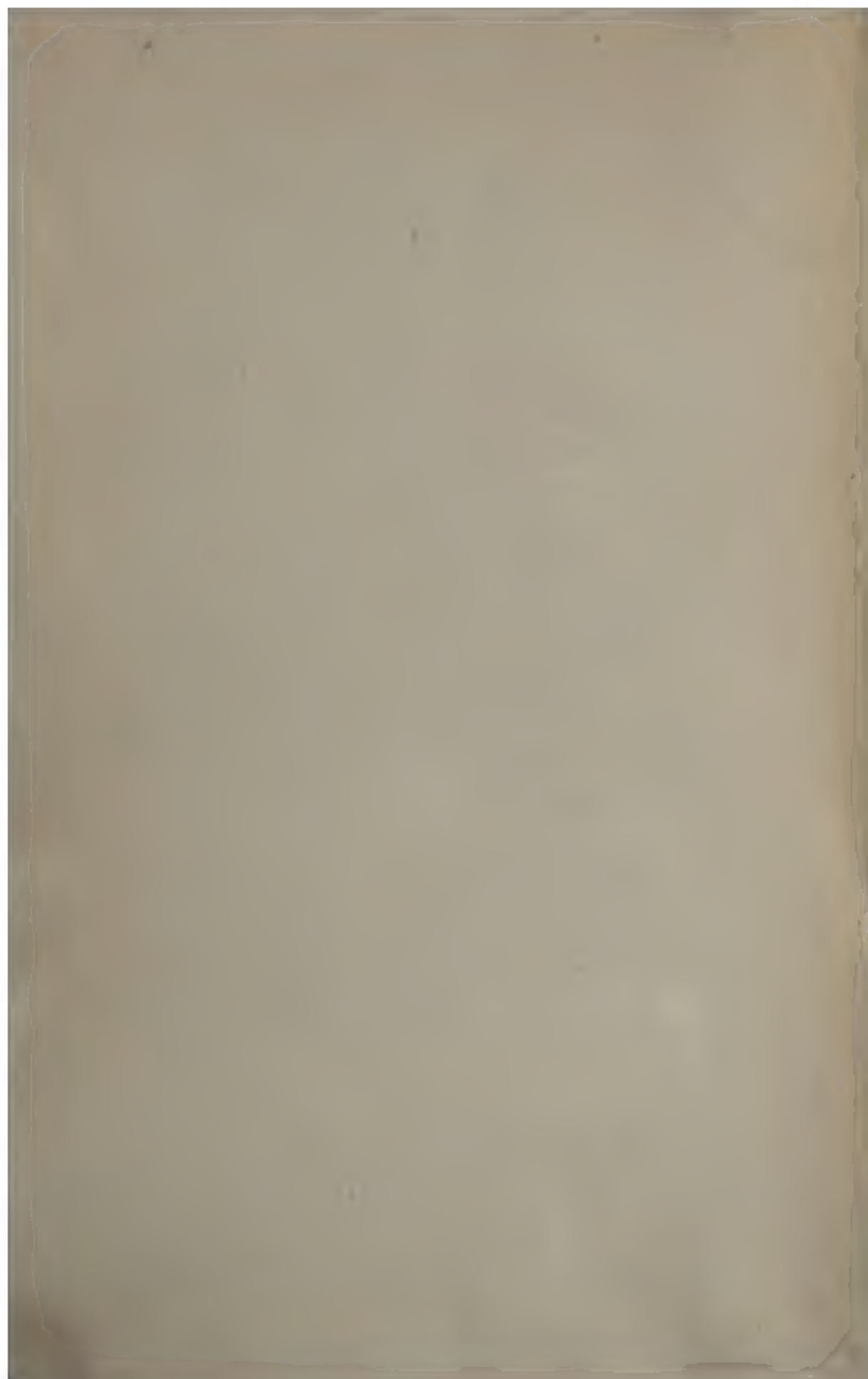
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FORMING
A WORK OF UNIVERSAL REFERENCE

ON SUBJECTS OF
CIVIL ADMINISTRATION, POLITICAL ECONOMY, FINANCE,
COMMERCE, LAWS AND SOCIAL RELATIONS.

Charles Knight

IN FOUR VOLUMES.
VOL. IV.

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speaking of this proceeding, Lord Brough expressed his surprise a judge should have been questioned for having given a judgment as other judges who ever sat in could have differed from."

In the case of *Ashby and White* referred to, the commons declared whoever shall presume to commit any action, and all attorneys, solicitors, and serjeants-at-law prosecuting, or pleading in any guilty of a high breach of the of this house." The effect of resolution, if obeyed, would be to the courts from coming to any at all upon matters of privilege, would be stopped at its com-; but the principle has not referred to.

Mr. Francis Burdett brought against the Speaker and the serjeants, in 1810, for taking him to in obedience to the orders of of Commons, they were dis- to plead, and the attorney-general instructions to defend them. A at the same time reported a "that the bringing these ac- acts done in obedience to the of the house is a breach of privi- but it was not adopted by the

The actions proceeded in the of course, and the Court of King's sustained and vindicated the of the house.

has been already said that Stock- first action was brought when court was not sitting. Having the directions from the house, Messrs. Hansard pleaded to the action, in general issue they proved the of the house, which were held to protection, but had judgment upon which would have availed them had they printed the report com- of on their own account. Not- ending its resolutions, the house, acquainted with this action, in- setting upon them when a second commenced, reverted to the proce- of 1810, and directed Messrs. Han- to plead, and the attorney-general them. In this case nothing of the House of Com-

mons were relied upon in defence of Messrs. Hansard, and the Court of Queen's Bench unanimously decided against them. Still the House of Commons was reluc- tant to act upon its own resolutions, and instead of punishing the plaintiff and his legal advisers, "under the special circum- stances of the case," it ordered the dam- ages and costs to be paid. The resolu- tions however were not rescinded, and it was then determined that in case of future actions, Messrs. Hansard should not plead at all; and that the parties should suffer for their contempt of the resolu- tions and authority of the house. Another action was brought by the same person and for the same publication. Messrs. Hansard did not plead, the judgment went against them by default, and the damages were assessed by a jury in the sheriff's court at £600. The sheriffs of Middlesex levied for that amount, but having been served with copies of the resolutions of the house, they were anxi- ous not to pay the money in Stockdale until they were unable to delay the pay- ment any longer. At the opening of the session of parliament in 1840, the money was still in their hands. The House of Commons at once entered on the consid- eration of these proceedings, which had been carried on in spite of its resolutions, and in the first place committed Stock- dale to the custody of the serjeant-at-arms. The sheriffs were desired to refund the money, and, on their refusal, were also committed. Mr. Howard, the solicitor of Mr. Stockdale, was suffered to escape with a reprimand. The sheriffs retained possession of the money until an attach- ment was issued from the Queen's Bench, when they paid it over to Stockdale. Stockdale, while in prison, commenced a fourth action by the same solicitor, and with him was committed to Newgate for the offence; and Messrs. Hansard were again ordered not to plead. Once more judgment was entered up against them, and a writ of inquiry of damages issued.

Mr. France, the under-sheriff, upon whom the execution of this writ de- volved, having been served with the resolutions of the commons, expressed, by petition, his anxiety to pay obedience to them, and sought the protection of

the house. He then obtained leave to show cause before the court of Queen's Bench on the fourth day of Easter term why the writ of *habeas corpus* should not be executed. Meantime the imprisonment of the plaintiff and his attorney did not prevent the prosecution of further actions. Mr Howard's son, and his clerk, Mr Pearce, having been concerned in conducting such actions, were committed for the contempt, and Messrs Hansard, as before, were instructed not to plead. At length, as there appeared to be no probability of these vexatious actions being discontinued, a bill was introduced into the commons and passed, by which proceedings, criminal or civil, against persons for publication of papers printed by order of either house of parliament are to be stayed by the courts, upon delivery of a certiorari and affidavit to the effect that such publication is by order of parliament. Act 1 & 2 Vict. c. 3.

In executing the Speaker's warrant for taking Mr Howard into custody, the messengers had remained some time in his house, for which he brought an action of trespass against them. As it was possible that they might have exceeded their authority, and as the right of the house of commons was not directly brought into question, the defendants were, in this case, instructed to plead, although a clause for staying further proceedings in the action was contained in the bill which was pending, at that time, in the house of lords, by which however it was afterwards omitted, and the house of commons is still involved in litigation on account of the exercise of its privileges.

Mr May remarks 'Law, Privileges, &c. of Parliament', that "The present position of privilege is, in the highest degree, unsatisfactory. Assertions of privilege are made in parliament, and denied in the courts, the officers who execute the orders of parliament are liable to vexatious actions, and if verdicts are obtained against them the damages and costs are paid by the Treasury. The parties who bring such actions, instead of being prevented from proceeding with them by some legal process acknowledged by the courts, can only be deterred by an unpopular exercise of privilege,

which does not stay the actions. parliament were to act strictly upon their own declarations, it would be for the benefit not only of the parties but of counsel and their attorneys, the judges and the sheriffs, and so great would be the injury of punishing the officers of justice for administering law according to their consciences, that parliament would be obliged to retract its exertion of privilege against the accused at once, as happened in the case of *Stockdale v. Hansard*, forcing the sheriff for executing the writ of the court, and allowing judges who gave the objection to stand to pass without remark, is merely to principle, and betrays hesitation on part of the house, distrust of its own authority, or fear of public opinion" (1807).

Forms of Procedure.

Meeting of Parliament: Preliminary Proceedings. On the meeting of a parliament it is the practice for the chancellor with other peers appointed commissioners, under the great seal, for purpose, to open the parliament by a speech in which her Majesty will as soon as possible declare the causes of her calling parliament, and it being agreed by the Speaker of the house of commons to be first chosen, that you, gentlemen of the house of commons, repair to the place where you are to sit, and there proceed to the appointment of some proper person to be your Speaker; and that you choose some person whom you shall see cause to nominate at an hour stated by her Majesty's royal appointment. The commons then proceed at once to the election of their Speaker. If any arises the clerk of the table calls the Speaker, and standing up, presents the members as they rise. He also puts questions. When the speaker is chosen his proposer and seconder continue to the chair, where, standing on the upper step, he thanks the house and his seat. It is usual for some member to congratulate him when he has taken the chair. As yet he is only speaker-elect, and in such process himself

entrances to the house, holding lists of the members in alphabetical order printed upon large sheets of thick pasteboard so as to avoid the trouble and delay of turning over pages. While the members are passing into the house again, the clerks place a mark against each of their names, and the tellers count the number. These sheets of pasteboard are sent off to the printer, who prints the marked names in their order, and the division lists are then delivered on the following morning together with the votes and proceedings of the house. This plan has been quite successful, the names are taken down with great accuracy, and very little delay is occasioned by the process.

In committees of the whole house, divisions are to be taken by the members of each party crossing over to the opposite side of the house, unless five members require that the names shall be noted in the usual manner, but practically no such distinction is now observed.

In addition to the power of expressing assent or dissent by a vote, peers may record their opinion and the grounds of it by a "protest," which is entered in the Journals, together with the names of all the peers who concur in it.

When matters of great interest are to be debated in the upper house, the lords are "summoned," and in the house of commons an order is occasionally made that the house be called over, and members not attending when their names are called, are reported as defaulters, and ordered to attend on another day, when, if they are still absent and no excuse be offered, they are sometimes committed to the custody of the serjeant at arms.

The business which occupies nearly the whole attention of both houses (if we except the hearing of appeals by the lords and the trial of controverted elections by the commons) is the passing of bills, and the mode of proceeding with respect to them may be briefly described in the first place.

Bills, Public and Private.

Bills are divided into two classes—such as are of a public nature affecting the general interests of the state, and such as relate only to local or private

matters. The former are introduced directly by members, the latter are brought in upon petitions from those interested after the necessary notice has been given, and all forms respecting the standing orders have been complied with.

With few exceptions, public bills originate in either house, unless for granting supplies of any kind, which involve directly or indirectly the raising or appropriation of any tax or duty on the people. The exclusive right of the commons to deal with all legislation of this nature affects very extensively the practice of introducing private bills in either house. Thus, all those bills which authorise the levying of local tolls are brought in upon petition to the commons. These compose by far the greater part of all private bills. All bills for local improvement, whether for roads, lighting, watching, and the like in towns, or for establishing police, or for roads, bridges, railways, canals, or public works, originate in the commons. On the other hand, many bills of a local nature are always sent down to the lords, such as bills affecting estates, and for dissolving marriage, and on a question of principle it is perfectly undeniable that on large and important matters must begin in our house, but a restriction to business and a very division of labour are the result of this practice, which will be relieved by the measure, by the arrangement referred to (p. 459) in regard to bills. Bills affecting the peerage originate in the lords, and acts with the crown, where the prerogative of mercy is vested.

Progress of Bills. Public bills introduced in the house of lords any member may move to send a bill, and in the commons any member may move to send a bill. The more usual time for opposition is on the second reading, when all the grounds known, and the general principle of the bill may be considered. Leave is given to bring in a bill, and members are ordered to prepare the proposer and seconder of

whom others are sometimes added. It is then brought in and read a first time, a day is fixed for the second reading, which generally leaves a sufficient interval for the printing and circulation of the bill.

It has been already said that the second reading is the occasion on which a bill is particularly discussed. Its purpose is at that time made the subject of discussion, and if it meet with approval, it is committed, either to a committee of the whole house or to a select committee to consider its several provisions in detail. A committee of the whole house is in fact the house itself, in the absence of the speaker from the chair, but a rule which allows members to speak often as they think fit instead of reserving them to a single speech, as it is at times, affords great facilities for the full examination and full discussion of a bill. The practice of referring bills of an intricate and technical description to select committees has become very prevalent of late years, and might be extended with advantage. Many bills are discussed by a few members only, whose suggestions are intended to with imputation and thus valuable suggestions are withheld in the house, which in a another might be embodied in the bill. Reserving such bills to a select committee the house is enabled to attend to matters more generally interesting, and other business, of perhaps equal importance, is proceeding at the same time, and it has always the opportunity of voting amendments introduced by members.

Before a bill goes into committee there are certain blanks for dates, amount of duty or &c., which are filled up in this way. Bills of importance are often committed, or in other words, passed, and even in some instances they pass three times through the committee, and the proceedings in committee are reported, the bill is reported with the amendments to the house, on which occasion they are agreed to, amended, or disagreed to, as the case may be. If many amendments have been made, it is a common and very useful practice to read the bill before the report is taken

into consideration. After the report has been agreed to, the bill with the amendments is ordered to be engrossed previous to the third reading. A proposition was made not long since, but without success, for discontinuing the custom of engrossing upon parchment, and for using an engraved copy of the printed bill, signed by the clerk of the house, for all the purposes for which the engrossed copy is now required.

The third reading is a stage of great importance, on which the entire measure is reviewed, and the house determines whether, after the amendments that have been made on previous stages it is fit on the whole to pass and become law. The question, "that this bill do pass," which immediately succeeds the third reading, is usually no more than a form, but there have been occasions on which that question has been opposed, and even negatived. The title of the bill is settled last of all.

An interval of some days usually elapses between each of the principal stages of a bill, but when there is any particular cause for haste, and there is no opposition, these delays are dispensed with, and the bill is allowed to pass through several stages, and occasionally through all, on the same day.

This statement of the progress of bills applies equally to both houses of parliament. There is however one, it might be said, in the title of a bill while pending in the lords, which is always omitted "an act," whether it has originated in the lords or has been brought up from the commons.

When the commons have passed a bill, they send it to the lords by one of their own members, who is usually accompanied by not less than eight other members. The cards sent down bids by two masters in chancery unless they relate to the crown or the royal family, in which case they are generally sent by two judges.

Some further information on this subject will be found under *Bill in Parliament*.

Private Bills. In deliberating upon private bills parliament may be considered as acting judicially as well as in its legislative capacity. The conflicting in-

terests of private parties, the rights of individuals, and the protection of the public have to be reconciled. Care must be taken, in furthering an apparently useful object, that injustice be not done to individuals, although the public may derive advantage from it. Vigilance and caution should be exercised lest parties professing to have the public interests in view should be establishing, under the protection of a statute, an injurious monopoly. The rights of landowners among themselves, and of the poor, must be scrutinised in passing an enclosure bill. Every description of interest is affected by the making of a railway. Land, houses, parks, and pleasure-grounds are sacrificed to the superior claim of public utility over private rights. The repugnance of some proprietors to permit the line to approach their estates, the eagerness of others to share in the bounty of the company and to receive treble the value of their land, embarrass the decision of parliament as to the real merits of the undertaking, which would be sufficiently difficult without such contrivances. If a company receive authority to disturb the rights of persons not interested in their works, it is indispensable that ample security be taken that they are able to complete them so as to return that public utility which alone justified the powers being intrusted to them. The imprudence of speculators is to be restrained, and unprofitable adventures discountenanced, or directed into channels of usefulness and profit. In short, parliament must be the umpire between all parties, and endeavour to reconcile all interests.

The inquiries that are necessary to be conducted in order to determine upon the merits of private bills are too extensive for the house to undertake, and it has therefore been usual to delegate them to committees. To prevent parties from being taken by surprise, the standing orders require certain notices to be given (to the public by advertisement, and to parties interested by personal service) of the intent on to petition parliament. The first thing which is done by the commons on receiving the petition therefore *is to inquire whether these notices have been properly given, and if all other*

forms prescribed by the standing orders have been observed. This inquiry is confided to a committee, who report their determination to the house. It will be necessary here to explain the constitution of this committee. Until very recently it was the practice for the Speaker to prepare "lists" of members who were to form committees on bills relating to particular counties, in such a manner as to combine a fair proportion of members connected with the locality, with the representatives of places removed from any local influence or prejudice. Each of these lists consisted of upwards of a hundred members, any five of whom formed the committee. This system was liable to many objections. The number of the committee was too great to allow any responsibility to attach to the members. They were canvassed to vote by each of the opposing parties without having heard the evidence or arguments of either side; and were sometimes induced to crowd into the committee-room and reverse decisions which had been arrived at after long and patient inquiry. These evils led to an entire alteration of the system. All petitions for private bills are now referred to the same select committee which is appointed at the beginning of each session, and is composed of members who habits of business and practical acquaintance with this branch of legislation constitute them a tribunal in every respect superior to the old list committees. To facilitate these proceedings they divide themselves into four or six sub-committees.

The report which this committee make to the house is simply whether the standing orders have been complied with or not. If it be favourable, leave is at once given to bring in the bill. If not, it is referred to another committee also appointed at the beginning of the session and called the "committee on standing orders," whose province it is to inquire into the circumstances of the case, and report their opinion as to the propriety of dispensing with the standing orders, of requiring notices, or imposing new conditions. If this committee decide that the parties are not entitled to indulgence, it is still competent for the house to relax

—the engineering difficulties,—the gradients and curves, are all distinctly stated. This system might be extended, with great advantage, to other classes of bills; but is confined at present to railway bills alone. Much attention has been paid of late to the improvement of the modes of conducting private business, and it is not improbable that detailed reports may form part of the future recommendations of committees, on whom the task of suggesting further improvements may be imposed.

It has been said that public bills are occasionally referred to select committees; these however must also pass through a committee of the whole house. Private bills are committed to select committees only. Bills for divorces, by a standing order, were committed, like public bills, to committees of the whole house, until the 11th February, 1840, when an order was made for referring them to a select committee of nine members.

It will not be necessary to pursue any further the progress of private bills, which differs only from that already described in respect of bills of a public nature, in the necessity for certain specified intervals between each stage, and for notices in the private bill office.

In the House of Lords, when a private bill is unopposed, it is committed to the permanent chairman of committees, and any other peers may attend, but when a bill is to be opposed, the committee on standing orders inquires whether the standing orders have been complied with, and if so, the bill is referred to a committee of five appointed by a standing committee of five peers, to whom is confided the duty of selecting all committees on opposed bills, according to the circumstances of each case.

In order to ensure a proper acquaintance with the provisions of private bills, some of which are very voluminous, the House of Commons have lately adopted a rule requiring breviate of the bills to be laid before them six days before the second reading, and breviate of the amendments made by the committee, before the house take the report into consideration. These are prepared by the ex-

aminer of election recognizances and counsel to the speaker.

Conferences between the two Houses.—The progress of bills in each House of Parliament having been detailed, it still remains to describe the subsequent proceedings in case of difference between them. When a bill has been returned by either house to the other, with amendments which are disagreed to, a conference is desired by the house which disagrees to the amendment, to acquaint the other with the reasons for such disagreement, in order, to use the words of Hatsell, "that after considering those reasons, the house may be induced, either not to insist upon their amendments, or may, in their turn, assign such arguments for having made them, as may prevail upon the other house to agree to them. If the house which amend the bill are not satisfied and convinced by the reasons urged for disagreeing to the amendments, but persevere in insisting upon their amendments, the form is to desire another conference; at which, in their turn, they state their arguments in favour of the amendments, and the reasons why they cannot depart from them; and if after such second conference the other house resolve to insist upon disagreeing to the amendments, they ought then to demand a 'free conference,' at which the arguments on both sides may be more amply and freely discussed. If this measure should prove ineffectual, and if, after several free conferences, neither house can be induced to depart from the point they originally insisted upon, nothing further can be done, and the bill must be lost." An interesting occasion on which all these proceedings were successively adopted has recently occurred. A free conference had not been held since 1702, until a contest arose in 1836 upon amendments made by the lords to a bill for amending the Act for regulating Municipal Corporations.

Whether the conference be desired by the lords or by the commons, the lords have the sole right of appointing the time and place of meeting. The house that seeks the conference must clearly express in their message the subject upon which it is desired, and it is not granted as a

of money. There are many instances to be found in the Journals in which a conference has been refused, but of late years. The custom that now obtains is that the other house are permitted by a committee appointed by that house, who report thereon to the house. These committees are generally very short, but in some cases conferences have been ordered that of considerable length. The conference is conducted by 'managers' for both houses, who on the part of the house leaving the conference, are the members of the committee who have drawn up the reasons, to which there are occasionally added 'their reasons for refusal and dissent in the conference' in which they are referred to the managers of the other house who report thereon to the house which they represent. A fine concludes the managers on both sides have more discussion verbal than any other negotiations which they conduct. A debate arose in the last few conferences to which we have not alluded, and the speeches of the managers were taken in short hand and printed. While the conference is being held, the business of both houses is interrupted and the return of the managers.

Amendments made in bills by either house are not the only occasions upon which conferences are demanded. Instances of importance, in which the concurrence of the other house is desired, are connected in this manner. Reports of committees have also been communicated by means of a conference. In 1835 a conference was demanded by the Commons to request an explanation of the circumstances under which a bill that had been introduced by the Lords had received the royal assent without being referred to the Commons for their concurrence. The Lords expressed their regret at the mistake, and stated that they had themselves been prepared to discuss amendments upon the subject, when they received the message from the Commons.

Conferences were formerly held in the Palace of Westminster, but since the destruction of the House of Parliament by fire in 1834, that apartment has been appropriated to the sittings of the House of Peers,

and conferences now meet in one of the lords' chaplains' rooms.

Royal Assent to Bills. The form of giving the royal assent to bills has already been described. [Appendix B. 4. 1.]

Members of Committees. are either 'of the whole house' or 'select.' The former are in fact the house itself, with a chairman instead of the Lord Chancellor as speaker presiding. There is a more free and unlimited power of debate when the house is in session, no member may speak any number of times upon the same question, from which they are restrained on other occasions. Select committees are specially appointed generally for inquiry into particular subjects connected with legislation. It is usual to give them the 'power to send for persons, papers and records' but in cases of any delicacy in their action, they have no direct means of enforcing compliance, but must report the circumstances to the house which will impose such measures.

In case of an equality of votes the chairman, who is chosen by the committee out of its own members gives the casting vote. There is no exception appears to have existed as to the precise nature of the chairman's right of voting. In 1835 the House of Commons was informed that the chairman of a select committee had first claimed the privilege to vote as a member of the committee and afterwards, when the votes were equal, of giving a casting vote as the chairman, and that such practice had of late years prevailed in some select committees when it was declared by the house that, according to the established rules of parliament the chairman of a select committee can only vote when there is an equality of votes. (H. Commons' Journals p. 211.) This error was very probably occasioned by the practice of clerical committees which was however confined to them, and only existed under the provisions of rules of parliament.

In 1837 some regulations were made by the House of Commons for rendering select committees more efficient and responsible. The number of members in a committee was limited to fifteen. Lists of their names are to be affixed to some conspicuous place in the committee

VII. the English dominion and the parliamentary representation were alike confined to the counties composing what was called the Pale, that is, to those of Dublin, Louth, Kildare, and Meath (then comprehending both East and West Meath), with a very few seaports beyond these limits. The vigorous measures taken under Henry VIII. and succeeding kings however gradually extended the authority of the English institutions and laws. The possessors of some of the original Irish peerages, after maintaining for centuries an independence as complete as that of the native chieftains themselves, were induced to attend the house of lords, and many new peerages were conferred, some on Englishmen or persons of English descent, some on the heads of the old Irish families. The twelve ancient counties were all reclaimed in the reign of Henry VIII., and others were added by Mary, Elizabeth, and James, till, in the time of the last-mentioned king, the whole island was divided into thirty-two counties, as at present, each returning two representatives. Of these thirty-two counties however it is said there were seventeen in which there was not a single parliamentary borough, while in the remaining fifteen there were only about thirty. But either this account must be wrong or the common statement that James added only forty new boroughs must be an under statement, if as appears, the entire number of the Irish commons in 1613 was 232. In this number however would be included the two representatives of Trinity College, Dublin. Subsequent new charters to boroughs augmented the house by the year 1592 to 300, at which number it remained stationary. In 1634 the number of peers was 122, and more than 500 Irish peerages were created between that date and the Union. Some however also became extinct.

It was only for a very short period of its existence that the Irish parliament was held to be a supreme legislature. Ireland being regarded as a conquered dependency, it was maintained that its parliament was in all respects subordinate to that of England, and subsequently to that of Great Britain, which might make laws

to bind the people of the one country as well as of the other. The received legal doctrine used to be, that King John, in the twelfth year of his reign (A.D. 1210), obtained by letters-patent, in right of the dominion of conquest, that Ireland should be governed by the laws of England; in consequence of which both the common law of England and all English statutes enacted prior to that date were held to be of the same authority in Ireland as in England. With regard to English acts passed subsequently to that date, it was also held, in the first place, that Ireland was bound by all of them in which it was either specially named or included under general words. But further, inasmuch as one of the Irish acts called Poyning's Laws, passed in the tenth year of Henry VII. (A.D. 1495, in the lord-lieutenancy of Sir Edward Poyning, or Poyninga, declared that all statutes "lately" made in England should be deemed also good and effectual in Ireland, it was held that this established the authority in Ireland of all preceding English statutes whatsoever; making those enacted since the 12th of John of the same force with those enacted before that date. This however was admitted to be the last general imposition of the laws of England upon Ireland. Of the English statutes passed since the 10th of Henry VII., it was allowed that those only were binding upon Ireland in which that country was specially named or included under general words.

The above-mentioned was only one of Poyning's laws. The substance of some others is given by Blackstone (1 Com. 142) which prevented any laws from being proposed, except only such as were drawn up before the parliament which should pass them as in being. but by the 3 & 4 Philip and Mary, c. 4, it was provided that any new propositions might be certified to England for approval, even after the summons and during the session of parliament. Still this left to the parliament of Ireland nothing more than merely the power of rejecting any law proposed to it, it could neither initiate a new law nor repeal an old one, nor even amend or alter that which was offered for its acceptance. In practice however,

The history of the statute was somewhat re-
 laxed. It has been given me to state that
 the provisions of the act were years after
 the making of the last act, was,
 "that bills are often framed in either
 house either for the better or for the worse
 for a bill or an act, and that shape they
 are given to the consideration of the
 best considered and every detail, who
 upon each particular matter, or
 otherwise upon the consideration of private
 persons, to give and transfer each house
 to report them without any transmission
 to England. These bills of law were
 given to the House of Commons, from which
 or from the parliament, except that, instead
 of the words 'the House of Commons' the original
 consideration of each paragraph or
 clause was, 'We pray that it may be
 enacted' and the motion for passing
 them scarcely differed except in form,
 from the motion in the English House of
 Commons for the bill to be a bill, a
 motion necessary in all cases to be con-
 sidered, and it is the affirmative here
 the action, saying in it of any bill
 And in the case of the crown, in
 the government, which it was necessary
 to obtain from either house of the Irish
 parliament, and take up the considera-
 tion of any proposed law, with a view to
 be considered, that would in practice pro-
 duce a bill in a manner such as the
 House was with the consent of the crown,
 which was in England was necessary
 to give validity to any law after it had
 passed both houses. In the Irish as well
 as in the English parliament there was in
 fact an opportunity of discussing the
 proposition, and the parliament of the
 crown. As English as well as an Irish
 bill required the consent of the crown to be
 given, and was so. The practice
 of passing bills of law however was
 not considered in the Irish parliament
 but as in the English parliament.

The dependence of Ireland upon
 the English crown, and the consequent
 subordination of the Irish legislature
 were held to go still further thereby the
 consideration of the principle that 'a bill
 ought to be made by the parliament of the
 land to be enacted. The Irish House
 of Lords had entertained views of error
 upon judgments in the courts of common

law from the reign of Charles I. and ap-
 peared to equity from the Restoration.
 Nevertheless, in the year 1713 a bill
 passed in the Court of Exchequer having
 been referred by the House of Lords,
 the question was carried in the House of
 Lords of Great Britain, by which the
 judgment of the Court of Exchequer was
 affirmed.

On this the Irish House of Lords
 resolved that no appeal lay from the
 Court of Exchequer in Ireland to the
 parliament of Great Britain. That this
 resolution was immediately used by an
 act of the British parliament, the 12th
 Geo. I. declaring that the King's au-
 thority, by and with the advice and consent
 of the Lords spiritual and temporal of
 Great Britain in parliament assembled,
 had, hath, and of right ought to have full
 power and authority to make laws and
 statutes of sufficient force and validity to
 bind the people and the kingdom of Ire-
 land, and that the House of Lords in
 Ireland have not and of right ought not
 have any jurisdiction to judge, reverse,
 or alter any judgment, sentence, or de-
 cree given or made by any court within
 the said kingdom, and that all proceed-
 ings before the said House of Lords upon
 any such judgment, sentence, or decree
 are and are thereby declared to be utterly
 void and of no effect in all intents and purposes
 whatsoever.

In 1720 the law remained till the
 year 1721. In that year the statute 3
 Geo. I. c. 1, was repealed by the 13 Geo.
 III. c. 33, and the following year the 23
 Geo. III. c. 20, declared the authority of
 the Irish parliament and courts
 of justice in all matters of legislation and
 judgments for Ireland. In 1793, by the 4 Geo. IV. c. 26, the 23 Geo.
 III. c. 20 of the Irish parliament was re-
 pealed, and it was enacted that the
 United Kingdom should be represented
 in one and the same parliament, in the
 united parliament of the United King-
 dom of Great Britain and Ireland, &c.

The earliest Irish statutes on record
 are of the year 1190, but from that date
 there are several other years from
 which time there is a regular series. The
 whole have been printed, and there are

also abridgments by Bullingbroke and Becher, Hunt, and others.

(Lord Mountmorres's *History of the Irish Parliament* · Blackstone's *Commentaries* · Oldfield's *Representative History of Great Britain and Ireland* · Wakefield's *Account of Ireland*, *Statistical and Political* · Hallam's *Constitutional History of England*.)

PAROCHIAL REGISTERS. [REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES.]

PAROL. This term, which signifies "a word," has been adopted from the Norman French as a term of art in English law, to denote verbal or oral proceedings, as distinguished from matters which have been recorded in public tribunals or otherwise reduced to writing. Thus a parol contract is an agreement by word of mouth, as opposed to a contract by deed. Parol evidence is the testimony of witnesses given orally, as opposed to records or written instruments. Thus is the popular acceptance of parol, but, strictly speaking, everything, even in writing, is parol which is not under seal.

The formal allegations of the parties to a suit in the common law courts, called pleadings, which are now made in writing, were formerly conducted orally at the bar, and in the year-books are commonly denominated the *parol*. Hence in certain actions brought by or against an infant, either party may suggest the fact of the infancy, and pray that the proceedings may be stayed, and where such a suggestion was complied with, the technical phrase was that the "*parol demurred*" (*denominatus*), that is, the pleadings were suspended until the infant had attained his majority.

PARSON. [Brewster, p. 341.]

PARTNERSHIP. If two or more persons join together their money, goods, labour, and skill, or any or all of them, for the purpose of buying and selling, and agree that the gain or loss shall be divided among them, that is a partnership. The object of the partnership may be any thing that is lawful. Any agreement of partnership for an unlawful object is no agreement. The English law of partnership is founded on the common

law, the so-called law of merchants, and the Roman law. By the common law a partner has no power to bind his co-partner by deed. By the law of merchants he has power to bind his co-partner by a bill of exchange, and there is no survivorship in the partnership stock. From the Roman law is derived the principle that a partnership (*societas*) is terminated by the death of a partner. (Gaius, lib. 153.)

No writing is necessary to constitute a partnership. The acts of the parties, when there is no partnership contract in writing, are the evidence of the contract. Partners may be either ostensible, nominal, or dormant. He whose name appears to the world as a partner is an ostensible partner. An ostensible partner may or may not have an interest in the concern; if he has no interest in the concern, but allows his name to appear as one of the firm, he is a nominal partner; if his name and transactions as a partner are purposely concealed from the world, he is a dormant partner. But if his name and transactions are actually unknown to the world, he is more properly termed a secret partner. Generally speaking, any number of persons may be partners, but there are some exceptions. [BANK, JOINT-STOCK COMPANY.]

Any person of sound mind and not under any legal disability may be a partner. An infant may enter into this, as into any other trading contract which may possibly turn out to his advantage. It may however be avoided by him on coming of age, though the person with whom he contracts will be bound. An alien friend may be a trader and sue in personal actions, and may therefore be a partner. But an Englishman domiciled in a foreign country at war with England, or an alien enemy, cannot be a partner with a person in this country, at least he cannot sue in this country for a debt due to the firm. Married women are incapacitated from entering into the contract of partnership, and although they are sometimes entitled to shares in banking-houses and other mercantile concerns, yet in these cases their husbands are entitled to such shares, and become partners. If parties share in the profit and

total consent of the parties, by the decree of a court of equity, or by the bankruptcy, outlawry or felony of any of the partners. A court of equity will in some cases dissolve a partnership on the ground of mental insanity in one of the partners. A partner may agree that upon his death the business may be carried on beyond the legal period of dissolution in the hands of his children or other third parties, but this is properly an agreement for a new partnership. Partners cannot be relieved from future liabilities to third parties without notice to them and to the world in general that the partnership has ceased, but in the case of a dormant partner, if none of the creditors know that he is a partner, no notice of his retirement from the firm is necessary, and if it be known to some, notice to such only will be sufficient. On the death of a partner, notice of the dissolution to third parties is unnecessary.

Partners are joint tenants in the stock and all effects, yet upon the decease of a partner, his personal representatives become entitled to his share of the moveable stock and effects, and they thereupon become in equity, and, as it has been said, at law, tenants in common with the surviving partners. If, as is generally the case in the purchase of lands for the purposes of a partnership, they are conveyed to the partners as tenants in common, and one of the partners should die intestate, the legal estate in his share will descend to his heir, who will be tenant in common with the other partners. If the lands were conveyed to them as joint tenants, there will be no survivorship in equity, and it becomes then a question whether, upon the death of a joint tenant, who, with his partners, has so purchased lands for the purpose of the trade, his share will descend for the benefit of his heir or his next of kin, and the better opinion seems to be, although the point has never been decided, that although the legal estate in freehold property purchased by partners for the purposes of their trade will go in the ordinary course of descent, yet the equitable interest will be held to be part of the partnership stock, and distributable as personal estate. Purchased lands may be conveyed so as to be always held as

real estate, and descend to the heirs of the several partners.

Any fraud on the part of one partner, either by misapplication of the partnership fund or in any other way, is a matter of which a court of equity will take cognizance. No partner has a right to engage in any business or speculation which must necessarily deprive the partnership of his time, skill, and labour, because it is the duty of each to devote himself to the interest of the firm. It is the duty of each partner to keep precise accounts, and to have them always ready for the inspection of his co-partner. Each partner is liable to the performance of all contracts of his co-partners, in the same manner as if entered into personally by himself, provided they relate to matters which are within the objects and purposes of the partnership. If the parties to the contract of partnership do not regulate it by express stipulation, the contract will be interpreted according to the established rules of law that are applicable to it. Though partners may have entered into a written agreement which specifies the terms on which the joint concern is to be carried on, yet if the partnership business be regularly conducted in any respect contrary to those terms, it is a legal conclusion that the partners have, so far as the change extends, changed their terms of agreement. For instance, if the agreement be that no partner shall draw or accept a bill of exchange in his own name, without the concurrence of all the others, yet if they afterwards adopt a practice of permitting one of them to draw or accept bills without the concurrence of the others, it will be held that they have so far varied the terms of the original agreement.

One partner may maintain an action on a covenant against his co-partner, whether the covenant be for the payment of money or the performance of any act for commencing or establishing the partnership or for the performance of any of the articles after the partnership has commenced, and if adequate compensation for the breach cannot be had at law, a court of equity will enforce a specific performance of the covenant itself. Courts of law do not allow actions of debt by one

firm. It seems that a release by one of several partners to a debtor of the firm binds the firm, but if such release be fraudulent, it will be set aside by a court of equity; and even a court of law will interfere to prevent a fraudulent release from being pleaded.

Where no time is mentioned in the deed of partnership for its commencement, the liabilities of the firm will commence from the date of the deed, but in adventures, unless the parties have previously held themselves out as partners, the liabilities commence from the time fixed by the contract. An in-coming partner is not liable for debts contracted before he joined the firm, but if he pay any of the old debts or interest upon them, or do other special acts, he may render himself liable in equity. On the retirement of an ostensible partner, notice of his retirement must be given, or he will be liable to the creditors of the continuing firm for subsequent contracts made by them, and such notice is usually given in the 'Gazette'; but notice in the 'Gazette' will not bind creditors who are not shown to have seen the notice. Third persons have a claim against a dormant partner for contracts entered into by the firm while he was a partner. This claim is founded on such dormant partner being actually a partner, and therefore it is unnecessary, on the dissolution of a partnership between an ostensible and a dormant partner, to give notice of the dissolution to the creditors, in order to protect the latter from subsequent contracts: for when the dormant partner has ceased to be a partner, he is relieved from all future liability.

It is collected from the majority of cases that a partnership contract is joint (not joint and several), both at law and in equity. Upon the death of a partner, therefore, the legal remedy against him in respect to the joint contract is extinguished, and the creditor can maintain an action against the surviving partners only. But the rule of equity as applicable to partners with respect to third parties was considered to be that the joint debts should be satisfied out of the joint estate, if that were insufficient, then subject to the claims of their separate creditors out of their separate estates proportionally; and if any

of them were insolvent, then out of the remaining separate estates proportionally. But the case of *Devaynes v Noble* (1 Mer., 529), affirmed on appeal by Lord Brougham (2 R. & M., 495), has established the principle that a partnership contract is several as well as joint, and that a partnership creditor may have recourse for full payment to the estate of a deceased partner. And the same judge (Sir W. Grant, who decided that case) declared that a partnership debt has been treated in equity as the several debt of each partner, though at law it is only the joint debt of all. By this decision it appears that a joint creditor on the death of one partner obtains a more advantageous remedy against his estate than he would have had against his separate estate if living. But it seems doubtful whether this point can be considered as finally settled.

Notice of the decease of a partner to the creditors of the firm is not necessary to free his estate from future liability, but it is otherwise if one of the surviving partners be executor of the deceased. A deceased partner sometimes directs his executors to continue the trade in the case his estate will be liable to the extent to which he directs his assets to be employed. If the executor exceed that limit he becomes personally responsible.

In actions by partners, all the partners may, and all ostensible partners must, join as plaintiffs, unless the contract upon which the action is brought be in writing under seal, when only those partners who are included can sue thereon. But if a contract not under seal be made by some for the benefit of themselves and others, those for whose benefit it is made, as well as those whose names appear on the contract, may sue. Persons who may legally be partners in foreign countries, as husband and wife, cannot sue here as partners, for by the law of England husband and wife are not permitted to sue as partners. On the other hand, partners trading abroad in such a manner as to make a partnership here, may sue as partners for consignments sent to the country, though they cannot sue as partners at the place of trading by reason of the particular law of that place. The construction of contracts is governed by

describes his person, and serves as a voucher of his character and nation, and enables him to the protection of the authorities of other countries through which he may pass, and which are at peace with his own. On arriving at the outports or frontier towns of a foreign state, every traveller is obliged to show his passport, which is examined by the proper authorities before he is allowed to proceed on his journey. This ceremony is sometimes repeated at every garrison town which he passes on the road. Even the natives of most European states cannot travel twenty miles through their own country without being furnished with a passport.

The system of passports is old, but it has become much more rigid and vexatious during the last half century. Passports are not required in the British Islands and the United States of North America, and the natives of these two countries, accustomed to the freedom of unrestricted movement, find the regulations as to passports when they travel in the continent of Europe to be rather irksome. The practice has been defended on the plea that it prevents improper and dangerous persons from intermingling or associating themselves, but numerous instances have proved that persons, however dangerous, who have money and friends, can evade such restrictions. That every state may admit or refuse admission to foreigners as it thinks fit, cannot be questioned, and in times of war especially, some sort of restriction may be required for the safety of the country; but the present vexatious system of passports, as enforced in many European states in time of profound peace, is useless and mischievous. It is a check upon travellers, to whom it causes much trouble and loss of time, while the advantages supposed to result from it are at least very dubious.

It is not easy to enforce the regulations respecting passports where railroads have become almost the only mode of travelling, and in Belgium an alteration has recently been made in the passport system in consequence of the difficulty of rigidly adhering to the old regulations.

PASTURE. [COMMON, RIGHTS OF INCLOSURE.]

PATENT. This term is applied to certain privileges which are granted by the Crown by letters patent. (LETTERS PATENT.) The object of such privileges is to encourage useful invention. Before applying for a patent for an invention, two considerations are necessary: first, what is entitled to a patent; and next, whether the invention has the requisite conditions.

In the first place, the machine, operation, or substance produced, for which a patent is sought, must be new to public use, either the original invention of the patentee, or imported by him and first made public here. A patent may be obtained for England, Ireland, or Scotland, although the subject of it may have been publicly known and in use in either or in both of the other two countries.

In the second place, the subject of the invention must be useful to the public, something applicable to the production of a vendible article, for this is the construction put upon the words "new manufacture" in the statute of James I. The discovery of a philosophical principle is not entitled to such protection: such principle must be applied, and the manner of such application is a fit subject for a patent.

Inventions entitled to patent may be briefly enumerated as follows:—

1. "A new combination of mechanical parts, whereby a new machine is produced, although each of the parts separately be old and well known.

2. "An improvement on any machine, whereby such machine is rendered capable of performing better or more beneficially.

3. "When the vendible substance is the thing produced either by chemical or other processes, such as medicines or salines.

4. "Where an old substance is improved by some new working, the mode of producing the improvement is in most cases patentable."

If the inventor think that the machine, operation, or substance produced comes under any of these enumerations, and that it is new, and likely to be useful to

On paying the duty on a caveat at the Patent Office, and at the office of the attorney at law, the caveat is entered in the Patent Office.

It is also against granting letters patent to any person or persons for three days before the date of the caveat, without giving notice to A. H. M. in the case of a caveat.

It is also

Three months stand good for twelve months, and may be renewed from year to year. The fee for entering such caveat is £1 at each office.

As soon as the caveat is entered, the proprietor must file it necessary to obtain the consent of witnesses or others, in order to make his patent, after effect, and if he says that he should make known to them his caveat, he will not then be allowed to a patent. Any person who is necessary for the purpose of making such effect is not considered as a solicitor, as well as of course, as to his right. But though the caveat is a thing presented to the Patent Office, and is only a thing dealing with himself, people he is not protected against fraud. If a person in the caveat should make any statement, or cause to be made by several persons, between the time of entering the caveat and the first stage of proceeding that of making in the petition, no patent could be obtained, in the meantime that a statement the person could not make, or, if made, would be untrue. Again, if such statement, instead of making it public, were to give to some other person the necessary information, the latter might apply for a patent for such invention, no longer, and if he could succeed in obtaining a patent, it would be an injustice to the inventor, and a waste of time and money upon a subject for which no patent could be

obtained. If any one apply for a patent, the title of which is similar to that contained in the caveat, the attorney or solicitor presents will send a notice of such application to the entries of the caveat, who, if he should think such application likely to interfere with his invention, must, within seven days from the receipt of the notice, state in answer his intention of opposing such patent.

The attorney or solicitor general then enters the application in proper order, when he has, and if he should be of opinion that the two patents will interfere with each other, or are otherwise the same, the Patent Office is not to grant any patent except to the two persons who present, though if priority of invention can be proved to either, he who is prior is entitled to the patent.

If the invention is of such a nature that it can at once be produced or put into operation, no caveat is needed, and indeed a caveat may be the means of exciting the very attention and opposition which it is intended to prevent. Where some experiments or operations which require assistance must be performed before a definite title can be given to the invention, as must be done in the declaration and petition, it is much better to enter the caveat, and to getting the necessary parts of the machinery or operations performed by different persons, if possible, keep the invention a secret until the patent is secured.

The next step is to draw up a petition in the proper form, before doing which, however the title of the patent must be settled. To those who have not considered the subject, it may not seem a very difficult matter, but in fact it requires the greatest care, for the least discrepancy between the title and the description contained in the specification will endanger the patent. See the evidence of Mr. James and others before a committee of the House of Commons upon this subject, 1824.

The title should not touch the subject of the patent in such terms that any one may say if a patent has been taken out or applied for in the case of any similar invention.

The title of patents collectively should form an index of the inventions then yet

tested. It is a common practice however to make the title as obscure as it can be made without endangering the patent, in order that the real object of it may be kept secret. Not this is a matter of great difficulty, and has often justly vitiated a patent. The law requires all patented inventions to be open to public inspection, and the enterer of a caveat may be cheated by a title, for although the subjects may be the same, a title may express the invention so faintly, or indeed so falsely, that the similarity of two inventions may escape the notice of the attorney-general, and injustice may be done by granting a patent to one party while priority of invention belongs to another. By the 5 & 6, Wm. IV. c. 63, a patentee is allowed to enter a disclaimer of any part of the title or specification, with the consent of the attorney-general or solicitor-general, who may order such disclaimer to be published in the *Gazette*. This act supplies a remedy for unintentional errors, but is ineffectual where the title is purposely made obscure. Besides this, the disclaimer does not operate retrospectively, so that if an action be commenced before the entry of the disclaimer, the title and specification must be adduced on the trial as they originally stood. A caveat may be entered against the granting of such disclaimer.

The following cases contain instances of patents being lost through defective titles. *King v. Metcalf*, 12 Beav. 11, N. P. C., 249; *Cochrane v. Whithurst* (K. B., 1 Starkie, 205). In the case of *Bloxame v. Lee*, 6 Barn. and Cresk., 169 and 178, the title of a patent which came in question was—"A Machine for making Paper in single Sheets, without seam or joining, from 1 to 12 feet and upwards in width, and from 1 to 45 feet and upwards in length." The specification however described a machine only capable of producing paper of one width or to a certain width. Now if an inventor who thought of taking a patent for a machine to make paper of a greater width than 12 feet had looked at the title only of this patent, he would have supposed that such a patent already existed, but if he had inspected the specification, he would have found that it did not bear

out the title, as the machine therein described was not capable of making paper of a width greater than 12 feet. The patent then was invalid, as the title comprised more than the specification. This is the most common error that patentees fall into. *Jenop's case*, cited during the trial of *Boulton and Watt* against *Bell*, in 1775, by Mr. Justice Hilder, is another instance. A patent was taken out for a "New Watch," whereas the specification only described a particular invention in a watch, which was the real invention, and the patent was therefore void.

An honest and valid title may be stated, in a few words, to be, a description of the precise object of the invention in the most simple language.

The title being settled, the petition must be drawn in the following form—

"The humble petition of A. B., of
in the county of

"Sheweth,

"That your petitioner hath invented (here insert the title which you intend the patent to bear, that he is the first and true inventor thereof, and that it has not been practised by any other person or persons whomsoever, to his knowledge and belief.

"Your petitioner therefore most humbly prays that your Majesty will be graciously pleased to grant unto him, his executors, administrators, and assigns, your royal letters patent under the great seal of Great Britain for the sole use, benefit, and advantage of his said invention within England and Wales and the town of Berwick upon-Tweed, and also in all your Majesty's colonies and plantations abroad, for the term of 14 years, pursuant to the statute in that case made and provided."

The passage in *italics* must be omitted if the inventor does not intend to obtain a patent for the colonies. This petition, with a declaration annexed, must be left at the office of her Majesty's secretary of state for the home department. The declaration is in lieu of the affidavit which was required until the passing of the Act 5 & 6, Wm. IV. c. 62.

A few days after the delivery of the petition, the answer may be received, which contains a reference to the manner

or solicitor general to request if the invention is deemed of letters patent. If such request be favourable it must be taken out first at the Home-office for the patent warrant, which is addressed to the attorney or solicitor general, and signed the 11th is to be prepared. The bill is in effect the draft of the patent, and contains the grant with reference to the claims and provisions in the letters patent. It is signed by the secretary of state for the Home-department and by the attorney or solicitor general. If at this stage of the proceedings any person should wish to oppose the patent, a caveat may be entered in the manner rigidly described but the caveat is required to deposit not at the office of the attorney or solicitor general, but at the patent office, a copy of which should be sent to the attorney or solicitor general. The bill when prepared, must be left at the office of the secretary of state for the Home-department for the queen's sign manual. It must then be passed at the signet office, where letters of warrant to the Lord keeper of the privy seal will be made out by one of the clerks of the signet, and finally, the clerk of the privy seal will make out other letters of warrant to the Lord chamberlain in whose office the patent will be prepared, signed with the great seal and delivered to the patentee. Considering the number of offices through which a patent passes, it might be supposed that the inquiry into the validity of the claim is very rigid, and that, when once the patent is sealed, it is safe from question. This is not the case, the new officers through whose office it is carried exercise no opinion upon the validity of the patentee's claim: the whole responsibility rests upon himself, as will be seen by perusing the following abstract of the form of letters patent.

The first part of the patent recites the petition and declaration and sets forth the facts which has been given to the invention by the inventor.

The 2nd relates to the granting the invention of the invention to the inventor for the space of fourteen years whereby all all other persons are prohibited from making the invention without a licence in writing first had and obtained from the patentee, and persons are prohibited from counter-

fetting or imitating the invention, or making any addition thereto or subtracting therefrom with intent to make themselves against the invention thereof. This clause also costs all justices of the peace and other officers not to interfere with the inventor in the performance of his invention.

The 3rd part declares that the patent shall be void, if contrary to law or prejudicial and inconvenient to the public in general, or not the invention of the inventor, or not first introduced by him into this country.

The 4th declares that letters patent shall not give privilege to the inventor to use an invention for which patent has been obtained by another.

The 5th relates to the manner in which letters patent licence shall be divided into more than a certain number of shares. The number of such shares need to be five, but all patents sealed since May, 1867, allow the inventor to be divided between twelve persons or their representatives. This part also relates to the granting of licences.

The 6th contains a proviso that a full and accurate description or specification shall be enrolled by the patentee in a specified time.

The 7th directs the patent to be returned to the most favourable manner for the inventor, and provides against malversation on the part of the clerk of the crown or clerk of the privy seal and bill.

Letters patent then only grant the maker of an invention for a certain time, provided that a statement in the declaration recite, that the title gives a description of the invention and that the specification be enrolled within a certain time mentioned in the patent, generally two years for England, four for England and Scotland, and six for the three countries together. This time depends on the attorney or solicitor general, a longer or shorter period being granted according to the extent and novelty of the invention. In some instances two years have been allowed for specifying.

The object of the specification is twofold.

First, it must show exactly in what the invention consists for which a patent has

been granted, and it must give a detailed account of the manner of effecting the object set forth in the title. It must describe exactly what is new and what is old and must claim exclusive right to the former. The introduction of any part that is old, or the omission of any part that is new, equally vitiates the patent.

In the second place, a patent is granted for a certain number of years on the condition that such full and accurate information shall be given in the specification as will enable any workman or other qualified person to make or produce the object of the patent at the expiration of that term without any further instructions. A specification is bad if it does not describe the means of doing all that the title sets forth. It is equally bad if it describes the means of effecting some object not stated in the title. It is incomplete if it mentions the use of one substance or process only, and it can be proved that the invention made use of another or that another known substance or process will answer the purpose as well, and it is false if more than one substance or process is described as producing a certain effect, and it is found that any one of them is unfit to the purpose. Patents frequently render their patents invalid by claiming too much; thus, after describing one substance or process which will answer a certain purpose, they often conclude by some such expression as "or any other fit and proper means." The following is an instance in which a patent was set aside by such an expression. In specifying a machine for drying paper by passing it against heated rollers by means of an endless fabric, the inventor, after describing one sort of fabric, the only one in fact which he used, went on to say that any other fit and proper material might be used. Now if he used any other means of effecting his object, such means should have been distinctly described. This alone rendered his specification incomplete. But, besides this, it was proved that no other fabric would answer the purpose, or rather, that no other was known, and the patent was annulled accordingly. The cases which have been already mentioned as instances of bad titles will, by supposing the title to be good, be con-

verted into instances of bad specifications, as the invalidity arises from the title and specification not agreeing with each other.

The patentee may describe his invention just as he pleases, and he may illustrate each description by drawings or not; but he should be careful to use words in their most common acceptation, or if some technical use should have prevailed thereon, he should make it appear distinctly that he intends them to be taken in such perverted sense. Prepared in the form of the other part of the specification.

"To all to whom these presents shall come greeting, I the said petitioner a name and residence, send greeting. Whereas her most excellent Majesty Queen Victoria, by her letters patent under the great seal of Great Britain, bearing date at Westminster, the day of in the year of her reign, did give and grant unto me, the said A. B., my executors, administrators, and assigns her special power, full power, sole privilege, and authority, that I the said A. B., my executors, administrators, and assigns, and such others as I the said A. B. my executors, administrators, and assigns, should at any time agree with, and agree with, from time to time, and at all times hereafter during the term of years therein mentioned, should and lawfully might make, use, exercise, and vend within England, Wales, and the town of Berwick upon Tweed, and also in all her said Majesty's colonies and plantations abroad (it such be the case,) my invention of in respect the title set forth in the letter patent recited, in such letters patent there is contained a proviso that I the said A. B. should cause a performance description of the nature of my said invention and in what manner the same is to be performed, by an instrument in writing under my hand and seal to be returned in her said Majesty's High Court of Chancery within calendar months immediately after the date of the said letter patent recited letters patent, reference being thereunto had may more fully and at large appear. Now know ye, that in compliance with the said proviso, I the said A. B. do hereby declare the nature of my invention and the manner in which

the public lose by this. The inventor, if he procure a patent, will take care that although he may be the party inconvenienced at first by the outlay, the public shall pay for it eventually; but if he do not take out a patent, he will do all in his power to keep his invention secret for a longer time than the patent would have allowed. This circumstance has given rise to much of that jealousy which is so apparent among manufacturers, it has materially retarded the study of the arts, which are now fenced round with secrets and difficulties, and has been mainly instrumental in causing the great want which confessedly exists, of men conversant at once with the theory and the practice of mechanical operations.

The truth of these observations will be admitted by all who have been in any way connected with manufactures; but if any evidence be wanting to convince those who are not, the small number of patents taken out in England is quite conclusive. In 1837 the number of English patents was 254, and that of Scotch 132; the numbers in France and Prussia were much larger. Much has been said against the present law of patent, which in our opinion is unfounded in truth. There are difficulties connected with the title and specification which cannot perhaps be smoothed by any legislative enactments, but the obstacles which the law has placed in the way of inventors can be easily removed. There is nothing to prevent patents being granted in a quarter of the present time, and at a tenth part of the present expense. When this is done, the number of patents will rapidly increase, talent, which is inert for want of motive, will be called into action, and the workshop will no longer be closed against the philosophic inquirer.

PATENT LETTERS. [LETTERS

PATENT

PATERNITY. [BASTARD.]

PATRIARCH. [BISHOP, p. 377.]

PATRICIANS AND PLEBEIANS.

[NORTH ITY, AGRIANIAN LAWS.]

PATTERNS. [COPYRIGHT, p. 645.]

PATRON. [ADVOWSON, BENEFICE;

PARISH CLERGY.]

PAUPERISM. [POOR LAWS AND
PAUPERISM, SETTLEMENT.]

PAWN. (PLEDGE.)

PAWNBROKERS. All persons who receive goods by way of pawn or pledge for the repayment of money lent thereat at a higher rate of interest than five per cent per annum, are pawnbrokers. In pawning, the goods of the borrower are delivered to the lender as a security. [PLEDGE.]

The business of lending money on pledges is in many countries carried on under the immediate control of the government as a branch of the public administration; and where only private individuals engage in it, as in this country, it is placed under regulations. Thus in China, where pawnbrokers are very numerous, Mr. Davis says (China, vol. II. p. 438) they are under strict regulations.

The 12 Anne, stat. 2, c. 16, fixed the legal rate of interest at 5 per cent per annum, but the interest which pawnbrokers are allowed to charge is regulated by a special statute, the 39 & 40 Geo. III. c. 99, passed 28th of July, 1798. This act fixes the rates of interest allowed on goods or chattels placed in the hands of pawnbrokers according to the following scale—

For every pledge upon which the sum shall have been lent any sum not exceeding 2s. 6d., the sum of 4d. for any time during which the said pledge shall remain in pawn not exceeding one calendar month, and the same for every calendar month afterwards, including the current month in which such pledge shall be redeemed, although such month shall have expired. If there shall have been lent the sum of 5s., one penny; 7s. 6d., one penny halfpenny; 10s., two pence; 12s. 6d., two pence halfpenny; 15s., three pence; 17s. 6d., three pence halfpenny; 20s., four pence; and so on progressively in proportion for any sum not exceeding 40s., but if exceeding 40s. and not exceeding 42s., eight pence; if exceeding 42s. and not exceeding 44s., after the rate of three pence for every 20s., by the calendar month, including the current month, and so on in proportion for any fractional sum. Persons may redeem goods within seven days after the expiration of the first calendar month of

and are making compensation to the owner according to the award of a magistrate, is 15*l*. They are required to produce their books on the order of a magistrate in any dispute concerning pledges, and are not to purchase goods which are in their custody. The act extends to the execution of pawnbrokers.

The Pawnbrokers Act prohibits pledges being taken from persons intoxicated or under twenty years of age, and by the Vagrancy and Police Act 2 & 3 Vict. c. 47, a fine of 1*l*. is inflicted upon pawnbrokers taking pledges from persons under the age of sixteen. Pawnbrokers are prohibited from buying goods between the hours of 8 a.m. and 7 p.m., or receiving pledges from Michaelmas-day to Lady-day before 8 a.m. or after 3 p.m., or for the other part of the year, before 7 a.m. or after 3 p.m. excepting on Saturdays and the evenings preceding Good Friday and Christmas-day when the hours for closing are extended to 1 p.m. They are required to place a table of profits and charges in a conspicuous part of their places of business.

Pawnbrokers are required to take out an annual licence from the Stamp Office, and, to enable them to take in pledge articles of gold and silver, a second licence is necessary, which costs 1*l*. 1*s*. Those who carry on business within the limits of the red twopenny-post pay 1*l*. a year for their licence, and in other parts of Great Britain 1*l*. 1*s*. The licence expires on the 31st of July, and a penalty of 2*l*. is incurred if it is not renewed ten days before. No licence is required in Ireland, but those who carry on the business of a pawnbroker must be registered.

In 1823 the number of pawnbrokers in the metropolitan district was 264, 246 in 1828, and 343 in 1842, in the rest of England and Wales the number was 1003 in 1823, 1196 in 1838, and 1304 in 1842. In Scotland the number was 73 in 1823, 94 in 1834, and 133 in 1842 making a total of 1927 establishments in 1842, which paid 16,521*l*. for their licences, besides the licence which many of them take out as dealers in gold and silver. The increase in England is to a considerable extent chiefly in places

where the business of a pawnbroker has not hitherto been carried on, and in Ireland, according to the 'New Statistical Account,' the extent of this branch is remarkable. The business of a pawnbroker was not known in Glasgow until Aug. 1808, when an itinerant English pawnbroker commenced business in a small room, but deranged at the end of months and his place was not supplied until June, 1813, when the first regular office was established in the west of Scotland for receiving goods in pawn. 118 individuals were entered into the 'book' and the practice of pawning became common that, in 1821, in a warehouse of 2043 heads of families pawned 72 articles, on which they raised 72*l*. 1*s*. 6*d*. The capital invested in this branch in 1841 was about 20,000*l*. As to the articles pledged are redeemed within the legal period. Dr. Colquhoun's 'Form and Present State of Glasgow' 1844. There are no means of ascertaining the exact number of pawnbrokers establishments in the large towns of England, except of the amount and nature of the dealings of pawnbrokers would supply much valuable evidence of the condition and habits of the people. The only record of the kind which we have seen was supplied by a large pawnbroking establishment at Glasgow to Dr. Colquhoun at the meeting of the British Association for the Advancement of Science 1846. The list comprised the following articles—525 men's coats, 255 men's 288 pairs of trousers, 24 pairs of waistcoats, 1940 women's gowns, 540 pairs of 132 wrappers, 125 dresses, 501 pairs of 240 silk handkerchiefs, 254 shirts, 40 shifts, 40 hats, 84 bed-ticks, 100 pairs of 212 pairs of blankets, 260 pairs of 182 bed covers, 35 table-cloths, 45 towels, 102 Robes, 204 watches, 100 rings, and 48 Waterhouse medals. It was not stated during what period the articles were received. There were at that time in Glasgow above thirty pawnbrokers. In the manufacturing districts during the prevalence of "strikes," or seasons of commercial embarrassment many hundreds of families pawned a greater part of their wearing-apparel and household furniture. (Paper read

to Mr. Ashmole, of Bolton, Lancashire, in 1786. The House of Commons stated on 22nd April 1841 that a man had stolen this same seven shilling coin from him, and he was afterwards a similar coin was given him for such a sum as the expenditure of industry and of his own resources in the Lancashire and Yorkshire is quite as being from the hands of those who have paid their wages in the same coin, but of taking their own share of the benefit of the work to which they are engaged in the Lancashire and Yorkshire and on the fact that the same person, who had been obtained to meet the needs of such a loan for the use of the work. It is on these facts and as such as arise out of the fact of obtaining some money for the use of the pawnbrokers make the point. It is stated in one of the Acts of the Poor Law, that a

person who the same day, pays interest at the rate of 10 per cent per annum.

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information of use to the trade, amongst whom it circulated.

The act for the regulation of pawnbrokers is found in the 2nd George III. c. 47. It says that pawnbrokers to take and lend money and to give security opposite the master of the city of London corporation register of pawnbrokers to be made to him monthly upon oath, of sums lent, and return the register a fee of one shilling on each return. The stamp duty on returns amounted to 2s. 6d. in 1841.

In 1837 Mr. Harrington founded the Lancashire Mount de Piété as a means of providing funds for the poor of that city. He selected buildings and sent competent persons to Paris to make themselves acquainted with the mode of conducting the Mount de Piété in that capital. A capital of £100,000 was raised on subscription, bearing interest at 4 per cent, and the establishment was opened on the 1st of March, 1837, under the control of a committee. In the course of eight months the fund had been lent on "small pledges" at a rate of interest amounting to one farthing per month for a shilling, or charge being made for repayment. The success of the establishment was such as to draw attention to it, and in the month of March 1838 the establishment was opened the value of the fund increased and the interest was increased to 5 per cent, the interest on which amounted to 5000 l. while the pawnbrokers' charge would have been 10 l. Towards the close of the year 1838 Mr. Harrington purchased a short passage for the further progress of the establishment. The capital had been increased to 150,000 l. and the interest of 10 per cent had been increased to 10 per cent. Small sums are lent on small pledges of known and respectable character on their personal security. This point is attended with valuable of facts upon the conduct and character of the pawnbrokers.

In Appendix I. "Five Inquiry Ireland," there is an account of the Ashmole Loan Society, which shows that where individuals can be found to supply the details, the various points of applying to pawnbrokers may be partially

"Pawnbrokers' Gazette" is a weekly publication, which contains information of sales, and other

obviated. This Society had borrowed 720*l.*, partly from the county Galway trustees, which sum had been disposed among 411 borrowers, and no loss had occurred during the two years in which the Society had been in operation, chiefly in consequence of the attention of the Rev. H. Hunt, the treasurer. In the evidence taken at an examination by the Commissioners of Inquiry in the county Leitrim (p. 93) it was stated that there were no pawnbrokers in the barony; but a class of men called *naucers* are to be met with in every direction, "and they bind both borrowers and sureties by solemn oaths to punctual repayment of the principal, and of the interest, which is exorbitant in proportion to the smallness of the sum lent." The witness, who was a magistrate, further stated, that a case had recently come before Lord Clements and himself in which a man had bound himself to pay 12*s.* a year in quarterly instalments for the use of 15*s.* principal. Such facts show the expediency of affording every encouragement to establishments conducted under the immediate control of the law. In some instances in Ireland pawnbrokers keep spirit-shops under the same roof or in an adjoining house. The Report just quoted states that people were beginning to lose their reluctance to wear the forfeited property of their neighbours; and most of the poor persons examined stated that a few years ago they were ashamed to go to the pawnbrokers, but this feeling appeared then to have been much weakened. The scarcity of capital in Ireland occasions many individuals to have recourse to pawnbrokers for purposes unknown in England, such as obtaining the means of purchasing a pig or buying seed.

The *Mont de Piété* is an institution of Italian origin. [*MONT DE PIÉTÉ.*] In 1661 a project existed for establishing *Monts de Piété* in England. It is extremely doubtful whether a public institution for lending money on pledges would answer in London. Many branch establishments would be necessary, and they would scarcely be so economically conducted as the establishments belonging to private individuals. The rates of interest charged by pawnbrokers are

high; but the average profits of the trade are not so great as might be inferred from a hasty glance at the preceding tables, which nevertheless fully prove that having recourse to pawnbrokers is an improvident mode of raising money. It is, however, a great convenience to many persons who could not raise money for temporary purposes in any other way. Those pawnbrokers who take out a licence to receive pledges in gold and silver do a considerable amount of business in that way, and of course not with the poorest classes. In 1838 a company was formed in London, called the '*British Pledge Society*,' which proposed lending money at one-half the rate of interest allowed by the 39 & 40 George III. c. 99, and without making any charge for duplicates. This society also pledged itself to make good losses in case of fire, for which casualty pawnbrokers are not liable. The bill of incorporation, after being read a first time in the House of Commons, was abandoned.

There is a *Mont de Piété* at Moscow on a very extensive scale, the profits of which support a founding hospital. They are numerous in Belgium. From a paper read by Rawson W. Rawson before the London Statistical Society in 1837, the following appear to be the terms of the *Mont de Piété* of Paris. "Loans are made upon the deposit of such goods as can be preserved to the amount of two-thirds of their estimate value; but on gold and silver, four-fifths of their value is advanced. The present rate of interest is 1 per cent. per month or 12 per cent. per annum. The *Mont de Piété* establishment has generally from 600,000 to 650,000 articles in its possession, and the capital constantly outstanding may be estimated at about 500,000*l.* The expense of management amounts to between 60 c. and 65 c. on each article, and the profits are wholly derived from loans of 5 francs and upwards. Articles not redeemed within the year are sold, subject however, as in England, to a claim for restoration of the surplus, if made within three years."

The statistical tables published by the French minister of commerce show the

that he is of good character and a fit person to be licensed. Upon this certificate being given, the commissioners grant the licence, which is only in force for one year, and the party who receives it is subject to a duty of 4*l* per annum, and an additional duty of 4*l* per annum for each beast if he travels with a "horse, ass, mule, or other beast bearing or drawing burthen;" and these duties are to be paid at the time of receiving the licence. The duties have not been altered since 1789. All persons who act as hawkers or pedlars without such a licence are liable to a penalty of 50*l*.

Among other regulations, the hawker or pedlar is required by the Act to "cause to be written in large legible Roman capitals, upon the most conspicuous part of every pack, box, bag, trunk, case, cart, or waggon, or other vehicle in which he carries his goods, and of every room and shop in which he trades, and likewise upon every handbill or advertisement given out by him, the words 'Licensed Hawker,' together with the number, name, or other mark of his licence," and in case of his omission so to do, he is liable to a penalty of 10*l*; and every unlicensed person who places these words upon his goods is liable to a penalty to the like amount. A hawker and pedlar travelling without a licence, or travelling and trading contrary to or otherwise than is allowed by the terms of his licence, or refusing to produce his licence when required to do so by inspectors appointed by the commissioners, or by any magistrate or peace-officer, or by any person to whom he shall offer goods for sale, is liable in each case to a penalty of 10*l*. A person having a licence, and hiring or lending it to another person for the purpose of trading with it, and also the person who so trades with another's licence, are each liable to a penalty of 40*l*. A hawker or pedlar dealing in or selling any smuggled goods, or knowingly dealing in or selling any goods fraudulently or dishonestly procured, forfeits his licence, and is for ever afterwards incapacitated from obtaining or holding a new licence. By the stat. 48 Geo. III. c. 84, s. 7, if any hawker or

pedlar shall offer for sale tea, brandy, rum, geneva, or other foreign spirits, tobacco, or snuff, he may be arrested by any person to whom the same may be offered, and taken before a magistrate who may hold him to bail to answer for the offence under the Excise laws.

By the provisions of the statutes 2 Geo. III. c. 26, § 6, and also of 50 Geo. III. c. 41, § 7, no person coming within the description of a hawker or pedlar can lawfully, either by opening a shop and exposing goods to sale by retail in any place in which he is not a householder or resident, or by any other means, sell goods either by himself or any other person by entry or auction, under a penalty of 50*l*. Hawkers were not allowed formerly to sell goods in market towns, except on a fair or market day; but this restriction was done away with by 35 Geo. III. c. 91.

It is further provided by the 18th section of the 50 Geo. III. c. 41, that if any person shall forge or counterfeit any hawker's or pedlar's licence, or travel with, or produce, or show any such forged or counterfeited licence, he shall forfeit the sum of 300*l*. Persons who hawk fish, fruit, victuals, or goods, wares, or manufactures made or manufactured by such hawkers, or by their children, are not required to take out a licence; nor are tinkers, coopers, glaziers, plumbers, harness-menders, or other persons usually trading in mending kettles, tubs, household goods, or harness of any kind (*Chitty's Commercial Law*, vol. ii. p. 163, *Burn's Justice*, tit. 'Hawkers.')

The amount raised by these licences is too insignificant as an object of revenue. They are in fact a tax on the consumers, like all other licences. The true policy is to let a person sell his goods where and how he can. Competition will ensure the consumer here, as in other cases, the best and cheapest article. The pedlar carries his wares into districts where the people have not access to the best markets, and thus he tends to correct the dealings of the settled trader. He also carries his wares to people who would often not know of the existence of them. The hawker is now one of the active instruments in diffusing cheap

characters, they amount to an atrocious injury, which is redressed by an action on the case founded on many ancient statutes, as well on behalf of the crown, to inflict the punishment of imprisonment on the slanderer, as on behalf of the party, to recover damages for the injury sustained.

Peers are tried for misdemeanors in the same way as other people. The lords spiritual are also, in all cases, tried by the ordinary courts. Peeresses have the same privileges as peers, whether they are peeresses by birth, creation, or marriage; but if a peeress by marriage marry a commoner, she loses her privileges.

The crown may at its pleasure create a peer, that is, advance any person to any one of the five classes, which is now done either by writ or patent. **BARON, LETTERS PATENT, NOBILITY.**] A peer cannot be deprived of the dignity or any of the privileges connected with it, except on forfeiture of the dignity by being attainted for treason or felony; and the dignity must descend, on his death, to others (as long as there are persons within the limitation of the grant), with all the privileges appurtenant to it, usually to the eldest son, and the eldest son of that eldest son in perpetual succession, and so on, keeping to the eldest male representative of the original grantee. Some deviation from this rule of descent, however, has occasionally occurred, special clauses having been introduced into the patent, which limit the descent of the dignity in a particular way, as in the case of the creation of Edward Seymour to the dukedom of Somerset, in the reign of Edward VI, when it was declared that the issue of the second marriage of the duke should succeed to the dignity in preference to the son of a former marriage. But generally, and perhaps universally for the two last centuries, the descent of a dignity (cases of baronies in fee, as they are called, being now for a moment excluded) has been to the next male heir of the blood of the person originally ennobled, sometimes with remainders to the next male heir of his father or grandfather.

The crown has sometimes granted dignity of the peerage to a person, remainder to the female issue or to female kindred of the grantee and heirs, as in the case of the Nelson age. In these cases it has generally happened either that the party had male issue to inherit, and that the males of the family were also with male issue, or that there was already dignity inheritable by the male line in the party on whom a new dignity conferred to descend to his female. A pension has also sometimes settled by Parliament on a person the time when he has been made peer, the pension is granted by the parliament on the recommendation of the crown.

The peers who possess what are called baronies in fee, are the descendants or representatives of certain old families for the most part long ago extinct in male line, but which had in their summons to parliament as peers, whose dignity it has been successively descended like a tenement to a daughter if only one daughter and heir, or number of daughters as coheirs, if there was no son. If A. died seised of a barony in fee, leaving B. a daughter only child, and M. a brother, the dignity shall inhere in B. in preference to M. and shall descend on the death of her eldest son. In case A., instead of leaving B. his only daughter, several daughters, B., C., D., &c. and no son, the dignity shall not go to M. among the daughters, and so on indefinitely, it is in a manner as long as those daughters, or issue more than one of them, exist. Should those daughters die with out of them having left issue, and that a son, he shall inherit on the death of his aunt. This is what is meant by the dignity of a peer of the realm being *abeyance*: it is divided among several persons, not one of whom possesses wholly, none of them can therefore enjoy it. [ANSWER.] But the crown has the power of determining the issue, that is, it may declare its pleasure that some one of the daughters, or eldest male representative of some

PEINE FORTE ET DURE. The "strong and hard pain," which is denoted by these words was a species of torture used by the English law to compel persons to plead, when charged with crimes less than treason, but amounting to felony. It was applicable whenever the accused stood mute on his arraignment, either by his refusal to put himself upon the ordinary trial by jury, or to answer at all, or by his peremptory challenging more than twenty jurors, which was a contumacy equivalent in construction of law to actually standing mute. This proceeding differed essentially from the torture which generally prevailed in Europe, and which, as connected with the royal prerogative, was also practised in England for several centuries, inasmuch as the object of the *peine forte et dure* was to force submission to the regular mode of trial prescribed by the law, and not to compel testimony or the confession of a crime.

The origin of this practice is uncertain. It appears from Bleta, and also from Britton (cap. 22.), that the punishment in the reign of Edward I., when the first traces of it appear, consisted merely of severe imprisonment, with a diet barely sufficient to prevent starvation, until the offender repented of his contumacy, and consented to put himself upon his trial. Shortly afterwards, however, the practice of loading the sufferer with weights and pressing him to death appears to have become the regular course. In the 'Year Book,' 8 Henry IV., 1 1406, the judgment upon persons standing mute, as approved by advice of all the judges, was "that the marshal should put them in low and dark chambers, naked except about their waist, that he should place upon them as much weight of iron as they could bear, and more, so that they should be unable to rise, that they should have nothing to eat but the worst bread that could be found, and nothing to drink but water taken from the nearest place to the goal, except running water, that the day on which they had bread they should not have water, and *contra*, and that they should lie there till they were dead." There is no trace of any statute

or royal ordinance, or of any authority besides this judicial resolution, to justify a change in the mode of *peine forte et dure* material as to affect the life of the prisoner. The term by which it was denoted also changed from *peine* to *peine forte et dure*, and from this period, for more than three centuries, until it was finally abolished by the stat. 12 Will. IV., 20 1772, *pressing to death* continued to be the regular and lawful mode of execution for persons who wilfully stood upon their arraignment felony. The press-yard at Newgate the present day retains its name derived from this barbarous practice.

Blackstone states that the *peine forte et dure* was rarely carried into practice (Commentaries, vol. IV. p. 374) probable that it was not of frequent occurrence, because, with this for punishment for contumacy before the eyes, men would naturally, for their part as Hale says, "bethink themselves and plead." It is, however, repeatedly mentioned in the Year Books as an existing proceeding. It is stated as such by Staunford, Coke, Hale, and Blackstone, in their several treatises on Criminal Law, and the number of recorded instances in which it is directly or incidentally mentioned, seem to show that it was much more prevalent than has been commonly supposed. The motive of the prisoner in standing mute and submitting to this heavy punishment was to save his attainer, and prevent the corruption of his blood and consequent forfeiture of his lands in case he was attainted of felony. In the 21st Henry VI. (1442), Juliana (Queen), was indicted for high treason, on appeal of contemptuous words of the king, had *peine forte et dure* because she would not plead (Crooke's Charles, 118.), in the margin of an inquisition post mortem Anthony Arrowsmith, in the 4th Eliz. 1598), are the words "Pain to death." Surtees's *History of Durham*, vol. II. p. 271., and in 1634 M. Strangeways was tried for the murder of John Russell, before Lord Chief Justice Glynn, and, refusing to plead, was pressed to death in Newgate. In a pamphlet which very minutely and

900,000*l.*, on which the pensions were charged. There were no limits, except the Civil List itself, within which the grant of pensions was confined, and at various times, when debts on this list had accumulated, parliament voted considerable sums (Sir Henry Parnell, in his work on 'Financial Reform,' says "some millions") for their discharge. In February, 1780, during the administration of Lord North, Mr. Burke introduced his bill for the better security of the independence of parliament, and the economical reformation of the civil and other establishments. In this bill it was recited that the pension lists were excessive, and that a custom prevailed of granting pensions on a private list during his majesty's pleasure, under colour that in some cases it may not be expedient to divulge the names of persons on the said lists, by means of which much secret and dangerous corruption may be hereafter practised. Mr. Burke proposed to reduce the English pension list to a maximum of 60,000*l.*, but the bill, as passed, fixed it at 55,000*l.* This act (22 Geo. III. c. 82, asserted the principle that distress or desert ought to be considered as regulating the future grants of such pensions, and that parliament had a full right to be interfered in respect to this exercise of the prerogative, in order to ensure and enforce the responsibility of the ministers of the crown. Mr. Burke's speech on introducing his bill is in the third volume of his 'Works,' ed. 1815.

Up to this time the Civil List pensions of Ireland, the pensions charged on the hereditary revenues of Scotland, and the pensions charged on the 4½ per cent. duties, had not been regulated by parliament.

In Ireland the hereditary revenue of the crown was used as a means of political corruption, the English act of 1 Anna, already cited, not being applicable to Ireland. In a speech of Mr. Hutchinson, secretary of state, made in the Irish House of Commons, in June, 1783, he stated that the gross annual hereditary revenue of Ireland amounted to 764,627*l.*, reduced by various charges to 275,102*l.* only—that the disposition of this revenue was in the hands of the

king; that "his letters and seals were the only authority for using it, and the only voucher allowed by the Commissioners of Accounts, and by the House of Commons," and that there was no Board of Treasury executing their functions under the authority of parliament. The Irish parliament, in 1757, had come to a unanimous resolution, "That the granting of so much of the public revenue to pensions, is an improvident disposition of the revenue, an injury to the crown and detrimental to the people." The Irish pensions then amounted to 10,100*l.* Two years after the above resolution was passed, an addition of 26,000*l.* was made to them: and in 1778 they were nearly double the amount at which they stood in 1757. In 1787 leave was refused to bring in a bill to limit the amount of pensions, and to disable persons holding pensions for a term of years, or during pleasure, from sitting and voting in parliament. Mr. Forbes, who moved the bill, stated that "it was a practice among certain members of the house to whom pensions had been granted, to carry them into the market and expose them for sale." In 1790 Mr. Forbes again moved resolutions, stating "that the Pension List amounted to 101,000*l.*, exclusive of military pensions, that the increase of pensions, civil and military, since February, 1784, had been 29,000*l.*, and that many of these pensions had been granted to members of parliament during the pleasure of the crown." These resolutions were not adopted. In 1794, when the whole policy of the Irish government was changed, among other beneficial measures introduced and recommended on the authority of the lord-lieutenant was a bill to limit the amount of pensions and to increase the responsibility of the Treasury, which was passed into law. By this act (33 Geo. III. c. 3, Irish statutes), the pensions on the Civil List in Ireland were limited to 80,000*l.* allowing a sum of 1200*l.* only to be granted in each year, until such reduction was effected. Grants bestowed during the pleasure of the crown, and converted into grants for life to the grantee and to the same amount, were exempted from the limitations of the

mittee, after a searching inquiry into the merits of each case on the Pension List, recommended the immediate suspension of several persons, to be re-granted on the responsibility of the government, should the circumstances of the parties render it necessary, others they considered should determine at an earlier period than specified in the original grant, and for several pensions, they considered it inadvisable to make any future provision, that is, that they should be no longer paid. In their Report, dated July, 1838, the committee recommended that in the case of all future Civil List pensions, the reasons and motives of the grant should be set forth in the warrant of appointment, that in pensions granted for services to others than the individual by whom the services were rendered, care should be taken, if these pensions are granted for younger lives, that is, to the sons or daughters of the individual entitled to the pension, that no undue increase of charge should be made, and that such grants should be avoided, except under very peculiar circumstances. They recommended also that pensions for the relief of distress should be granted only on the condition of their ceasing when the circumstances of the parties no longer require their continuance, that all pensions should be held liable to deduction or suspension in the event of the parties being appointed to office in the public service, that under no circumstances should the mere combination of poverty with the hereditary rank of the peerage be considered as a justification of a grant of a pension. The committee also recommended that, in order to avoid any possible doubt or misconception hereafter, enactments should be made with respect to the Irish and Scotch revenue analogous to those of the English act of 1 Anne.

It appears from the Report of the Committee on Pensions that the charge of pensions has been reduced as follow

	England.	Ireland.	Scot.	4½ per	Total.
	£	£	lancs.	cents.	£
1792	40,000	10,000	13,000	14,000	195,000
1820	74,000	67,000	17,000	4,000	212,000
1830	74,000	58,000	35,000	4,100	165,000
1838	The first cuts introduced.				1

Mr. Finlayson, of the National Debt Office, calculated, in 1838, the amount of saving which will be derived from the new system, assuming the ratio of decrease to continue as in the three previous years, and that the average ages of persons to whom new grants of pensions are made will be the same as heretofore:—

	Old Pension.	New Pension.	Total.
	£	£	£
1839	132,672	2,384	135,056
1844	97,549	8,077	105,626
1849	59,258	13,396	72,654
1854	30,792	18,255	49,047
1858	13,161	21,716	34,877

Mr. Finlayson was furnished by the committee with the ages of 806 persons in the receipt of pensions; and in 828 of these cases the date of the grant was ascertained. The mean age at which pensions were granted to males he found to be 72, and to females 76, and out of every 1000l. payable, 257l. was paid to males and 743l. to females. Mr. Finlayson complains that "the females have understated their ages very considerably, and sometimes with a contempt of all probability, more than one lady having set down her age at 39, forgetting that she has been forty-five years in receipt of the pension, and this from an aversion to own the age of 40."

The following is an account of the total amount of pensions granted in each year, ending the 20th day of June, from 1829 to 1837 inclusive, soon after which period the act 1 Vict. c. 2, came into operation, and the power of granting pensions was restricted. [CIVIL LIST.]

1829	£1870	1834	£2878
1830	6353	1835	2748
1831	5401	1836	1310
1832	2638	1837	3230
1833	900		

Besides the pensions on the Civil List the regulation of which at different periods has been referred to above, there are various annuities appropriated by parliament to the payment of pensions of other description. Thus every year the sum of about 1,350,000l. was voted on account of the pensioners of Chelsea Hospital, 245,000l. to the out-pensioners of Greenwich; 148,890l. to widows

of his services and to officers members of the civil departments of the Government. It is not a salary paid to persons and superannuated officers. The law pays to retired officers the salary and what was paid him in compensation of the loss of a pension. In some cases the pension is for pensions, gratuities and lost pay amounting to a certain number of years' pay.

The regulations of the superannuation law for civil servants, naval and military persons, granted pensions to persons who had served in the public service for a certain number of years. The pension is granted to persons who have held high judicial offices, or persons of high position and rank. The pension is a great extent of the salary of the judicial officer. The pension is a great extent of the salary of the judicial officer. The pension is a great extent of the salary of the judicial officer. The pension is a great extent of the salary of the judicial officer.

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with most important functions, no mist for the public service who enjoyed health and strength long afterwards and discharged the active duties of their professional business. In 1831 the House of Commons made some amendments in relation to superannuation allowances, which are given in a Parliamentary Paper No. 184, 2nd Session 1831.

But an account of pensions under the French means that the reader may refer to the *Encyclopédie Méthodique* section 'Pensions'.

PELLERIN from the Latin *pelleo*, by the common law of England to the offence of falsely swearing to facts in a judicial proceeding. To say that this offence the party must have been lawfully sworn to speak the truth by some court under its proper authority to administer an oath, and, and the oath he administered he must wilfully swear a falsehood in a judicial proceeding respecting some fact which is material to the issue of inquiry in that proceeding. In a legal sense, therefore, the term has a much narrower import than it has in its popular acceptation. A person may commit perjury by swearing that he has done a fact to be true which he knows to be false. It is immaterial whether the false statement has received credit or not, or whether any court has been deceived by an individual in a proceeding of it. The offence of perjury is a *Malum in se*.

The history of this offence in the common law is entirely dependent upon the history of the trial by jury. Where perjury is mentioned by Bracton and Fitz, they exclusively allude to the offence of jurors in giving a wilfully false verdict, and no juror appears to have been originally treated as a witness, speaking from their personal knowledge of the facts and events upon which the case was submitted to giving a false decision might be justly treated as perjury.

Now I have to mention the extension of the extended jurisdiction of the courts of our royal law to cases of perjury in witnesses as distinguished from that of jurors, earlier than the common theory will. The date of the introduction of the witness's oath to speak the truth, in

use at the present day, is unknown, and no form of process for securing the attendance of witnesses except where they were added to the jury, seems to have existed before the reign of Elizabeth. [JURY.] These facts tend to show that the offence of perjury has received its present definite character by the corresponding change in the functions of the jury. This change was complete in the time of Sir Edward Coke, as he defines perjury nearly in the same terms in which it is described in more modern text-books. (3 Inst., 113.)

A defendant in equity is guilty of perjury by false swearing in his answer to a plaintiff's bill. The defendant is in fact also a witness, for he is bound to answer on oath to the matter contained in the bill, and the plaintiff may read the whole or any integral portion of the defendant's answer as evidence against such defendant. In the case of an answer in equity, the offence of false swearing falls exactly within the definition given at the head of this article.

The punishments of perjury by the common law were, discretionary fine and imprisonment: the pillory, which punishment was abolished by 1 Vict. c. 23, in 1837, and a perpetual incapacity to give evidence in courts of justice. As to the penalties for Perjury, see LAW, CRIMINAL, p. 205. There are many statutes by which oaths are required as a sanction to statements of facts under a variety of circumstances, and otherwise than in judicial proceedings: and these statutes frequently declare that false swearing in such cases shall amount to perjury and be punishable as such. The Commissioners on Criminal Law have pointed out the objections to provisions of this kind, and have suggested a mode of rendering the law upon the subject more precise by drawing a line of distinction between false testimony in courts of justice and false swearing to facts on other occasions. See Fifth Report, pp. 25 and 26.

By the 5 & 6 William IV. c. 62, declarations may now be substituted for oaths in many extrajudicial proceedings. [OATH.]

PERPETUATION OF TESTI-

MONY. A party who has an interest in property, but not such an interest as enables him immediately to prosecute his claim, or a party who is in possession of property and fears that his right may at some future time be disputed, is entitled to examine witnesses in order to preserve that testimony, which may be lost by the death of such witnesses before he can prosecute his claim, or before he is called on to defend his right. This is effected by such party filing a bill in equity against such persons as are interested in disputing his claim, in which bill he prays that the testimony of his witnesses may be perpetuated. This is the only relief that the bill prays. If the prayer of the bill is granted, a commission issues to examine the witnesses, whose depositions are taken in the usual way in suits in equity. The depositions, when taken, are sealed up and retained in the custody of the court which grants the commission. When they are required to be used as evidence they can be so used, by permission of the court, by the party who has filed his bill or those who claim under him, and they can be read by the direction of the court as evidence on trial at law, if it is then proved that the witnesses are dead, or from any sufficient cause cannot attend. If the witnesses are living when the trial takes place, and can attend, they must be produced. A defendant to such a bill may join in the commission, and may examine witnesses under the commission, and he is entitled to use their depositions as evidence in his favour at a future trial. 1 Mer., 434.

A bill to perpetuate testimony may be filed by any person who has a vested interest, however small, in that thing to which he lays claim. The parties, or defendants to such bill, are those who have some adverse interest to the plaintiff.

PERSONALTY AND PERSONAL PROPERTY. [CHATTELS.]

PETITION OF RIGHT. In the first parliament of Charles I., which met in 1626, the Commons refused to grant supplies until certain rights and privileges of the subject, which they alleged had been violated, should have been solemnly recognised by a legislative enactment. With this view they framed a petition to

fishioner, his right to the pew, howsoever founded, and how valid soever during his continuance in the parish, at once ceases." *Faller v Lane*, 2 *Add*, 427. The same doctrine has been sanctioned by the Court of King's Bench. (*Ryerley v. Windus*, 5 *Barn. and Cres.*, 18. But in a case in the Court of Exchequer, chief baron Macdonald was of a different opinion. The question there was whether there could be in law a prescription for a person living out of the parish to have a pew in the body of the church, and it was held that there might. (*Lousley v. Hayward*, 1 *Y and E*, 583). As prescription presumes a faculty, these opinions seem to be at variance. Where a claim to a pew is made by prescription as annexed to a house, the question must be tried at law. The courts of common law in such cases exercise jurisdiction on the ground of the pew being an easement to the house (*Maitwaring v Giles*, 5 *Barn. and Ald*, 361) and if the ecclesiastical courts proceed to try such prescription, a prohibition would issue. In order to support a claim by prescription occupancy must be proved, and also repair of the pew by the party, if any has been required. (*Petman v Bridger*, 1 *Phill*, 325; *Rogers v Brooks*, 1 *T R*, 431; *Griffith v Matthews*, 5 *T R*, 297. The above observations apply to pews in the body of the church. With respect to seats in the chancel, it is stated in the Report of the Ecclesiastical Commission, page 49, "the law has not been settled with equal certainty, and great inconvenience has been experienced from the doubts continued to be entertained. Some are of opinion that the churchwardens have no authority over pews in the chancel. Again, it has been said that the rector, whether spiritual or lay, has in the first instance at least a right to dispose of the seats. Claims have also been set up on behalf of the vicar, the extent of the wardens's authority to remove any undue arrangement with regard to such pews has been questioned." (*Gibson*, 220, 3 *Test*, 222. 1 *Brown and Gould, Rep*, 4, *Griffith v Matthews*, 5 *T R*, 298, *Clifford v Wicks*, 1 *B and Ald*, 498, *Morgan v Curtis*, 3 *Mun and Ryl*, 383, *Rich v Bushnell* 4 *Hagg, Ecc. Rep*, 164.)

With regard to aisles or isles (wing) in a church, the case is different. The whole isle or particular seats in it may be claimed as appurtenant to an alienation or dwelling house, for the use of the occupiers of which the aisle is presumed to have been originally built. In order to complete this exclusive right it is necessary that it should have existed immemorially, and that the owners of the mansion in respect of which it is claimed should from time to time have borne the expense of repairing that which they claim as having been set up by their predecessors. (*1 Inst*, 272.)

The purchasing or renting of pews in churches is contrary to the general ecclesiastical law. (*Walter v Gunner and Drury*, 1 *Hagg, Convent Rep*, 314, and the cases referred to in the note, p. 318) *Hawkins and Coleman v Compaigne*, 2 *Phill*, 16.

Pew rents, under the church-building acts, are exceptions to the general law, and where rents are taken in populous places, they are sanctioned by special acts of parliament. Pew-rents in private unincorporated chapels do not fall under the same principle, such chapels being private property.

PHYSICIAN. The first class of medical practitioners in rank and legal pre-eminence is that of the physicians. They are by statute 12 Henry VIII, allowed to practise physic in all its branches among which surgery is enumerated. The law therefore permits them both to prescribe and compound their medicines and to perform operations in surgery as well as to superintend them. These privileges are also reserved to them by the statutes and charters relating to the surgeons and the apothecaries. Yet custom has distinguished the classes of the profession. The practice of the physician is universally understood, as well by their college as the public, to be properly confined to the prescribing of medicines, which are to be compounded by the apothecaries, and in so far as superintending the proceedings of the surgeon as to a diseased operation by prescribing what is necessary to the general health of the patient, and for the purpose of counteracting any internal disease. It would be

responsible to exonerate him the legal action required by all the different universities. It will, therefore, be well to mention those recognised by the British Association.

In the University of Oxford, for the degree of Bachelor of Medicine, it is necessary that the candidate should have completed twenty-eight terms from the day of matriculation, that he should have passed through the two examinations to qualify for the degree of Bachelor of Arts, that he should have spent at least three years in the study of law previous, and that he should be examined by the Regius Professor of medicine and two other examiners in the degree of M.D. in the theory and practice of medicine, anatomy, physiology, and pathology, in various medicines, as well as chemistry and botany as far as they illustrate the nature of medicine, and in two at least of the following natural medical sciences, viz. Hippocrates, Celsus, Aesculapius and Galen. After taking the degree of Bachelor of Medicine, a licence to practise is conferred on the candidate, under the common seal of the university.

For the degree of Doctor of Medicine, the candidate is required to have completed forty terms from the day of matriculation, and to write publicly in the presence of a dissertation upon some subject, to be approved by the Regius Professor, when a copy of it is afterwards to be presented.

At Cambridge a student, before he can proceed to the degree of Bachelor of Medicine, must have obtained an honours year, have read the two terms, and have passed the previous examinations; the necessary examinations, &c. are much the same as those required at Oxford. A Doctor of Medicine must be of five years' standing from the degree of M.B.

Since the University of London has been chartered in 1825, the degrees of Bachelor and Doctor of Medicine, among others, have been conferred there. The regulations under which these degrees are conferred are printed in the London University Calendar for 1844.

In Scotland the degree of doctor of medicine is conferred by the universities of Edinburgh, Glasgow, Aber-

deen, and St. Andrews, from which last-named university a diploma can still be obtained without residence; the regulations at the others contain nothing particularly worthy of notice.

In Ireland the King and Queen's College of Physicians carries much the same authority as the London college. The degrees of Bachelor and Doctor of Medicine conferred by Trinity College, Dublin, rank with the same degrees respectively from Oxford and Cambridge, and are never given without previous study in arts, which occupies four years. For the degree of M.D. five years must have elapsed since the degree of M.B. was conferred; the candidate is then to undergo a second examination, and write and publish a Latin thesis on some medical subject.

By the English law a physician is exempted from serving on juries, from serving various offices, and from bearing arms. He is, according to Willcock, p. 16, responsible for want of skill or attention, and is liable to make compensation for pecuniary damages so far as such can be deemed a consequence of any of his patients who may have suffered injury by any gross want of professional knowledge on his part.

In England physicians were once sometimes rewarded by the grant of church livings, prebendaries, and benefices, and the names of some are preserved who were made bishops. The fee of a physician is honorary, and it cannot be recovered by an action at law; and every person professing to act as a physician is precluded from assuming a different character as that of a surgeon or apothecary for the purpose of receiving his fees, although he may in fact be a surgeon or apothecary, or a person who has no right to practice as a physician. It has likewise been determined that a custom in the district of a town amounted to pay physicians at a certain rate is immaterial, and gives them no greater right to bring the action than in places where no such custom is known. Willcock, p. 17. A physician however of great eminence may be considered reasonably entitled to a larger remuneration than one who has not equal practice, skill,

it has become publicly understood that he expects a larger fee, inasmuch as the party applying to him must be taken to have employed him with a knowledge of this circumstance. *Ibid.*

PHYSICIANS, ROYAL COLLEGE OF, was founded through the instrumentality of Lancre, who obtained, by his interest with Cardinal Wolsey, letters patent from Henry VIII., dated in the year 1518. This charter granted to John Chamber, Thomas Lancre, Perrenaud de Victoria, Nicholas Hanswell, John Francis and Robert Yachey, that they, and all men of the same faculty of and in the city of London, should be in fact and name one only and perpetual community or college, and that the same community or college might yearly and for ever elect and make some prudent man of that community expert in the faculty of medicine, president of the same college or community, to supervise, observe, and govern for that year the said college or community, and all men of the same faculty, and their students, and also that the president and college of the said community might elect once every year, who should have the supervision and scrutiny, &c. of all physicians within the precinct of London. The statute of Henry VIII. confirmed this charter, and further ordained, that the six persons above named, choosing to themselves two more of the said community, should from henceforth be called and deemed elects, and that the same elects should yearly choose one of them to be president of the said community, and then provided for the election of others to supply the vacancies and places of such elects as should in future be void by death or otherwise, which was to be made by the survivors of the said elects. The statute of Henry VIII. provides that from thenceforth the President, Commoners and Fellows might yearly, at such time as they should think fit, elect and choose four persons of the said Commons and Fellows, of the best learned, wisest, and most discreet, such as they should think convenient, and have experience in the faculty of physic, to search and examine the apothecaries wares, &c. This last appointment is independent of the constitution of the body, the persons so ap-

pointed being officers for a special purpose, and it has been usual to select for this office the same four persons in whom the government of the physicians is reposed by the charter and statute of the 14th of that king.

The constituted officers then of the corporation are the eight elects, of whom one is to be president, and four governors, who have generally borne the name of censors. There is nothing to be gathered from the charter or statutes in any way tending to exclude any of the elects except the president, from the office of censor, and as no duties are assigned to the elects, except those of filling up the own number, electing one of themselves to be president, and granting testimonials to country practitioners, they may be either regarded as candidates for the office of president than as active officers of the corporation. The college is bound to choose four censors, for the purpose of discharging the duties confided in which are to be executed by themselves. It is also incumbent on the elects to preserve their number, so that they may at no time be less than five, including the president, as they would not, after a further reduction, be capable either of electing a president or choosing a president. All the vacancies in their own body, Wickock, *On the Laws of the Medical Profession*, p. 32. It is evident that the charter so far incorporated all persons to the said faculty, of and near London, that every person on the 23rd of September in the 16th year of the reign of Henry VIII. falling within that description was entitled to be admitted into the corporation. Such of them as had availed themselves of this privilege, and others subsequently admitted, are the persons described by statute 32 Henry VIII. 'Commoners and Fellows' printed in Wickock, p. 13. But as to the persons who should afterwards enjoy that distinction the original charter and all subsequent statutes are silent. James I. and Charles II. granted charters to that body. The former is silent as to the mode of continuing, but the charter of Charles, after limiting the number of Fellows to forty, enacts that when a vacancy should occur in the number, the remainder should elect

The most learned and able person called and experienced in physic, that of the majority of members of the college. These doctors seem to have been united with a view to the enactment of all to the same effect, as the kings respectively pledged themselves to give it royal assent. No statute has been at this time passed in pursuance of this part, and it is very doubtful how far and what extent the charters have been accepted by the college, though they have already been several times acted upon. (*Ibid.*, p. 14.)

The first statute of the college who may enter within the precincts of London seven miles round it were divided into three orders, viz. Fellow, Licentiate, and more Licentiate. The last three classes, generally designated, intended at some who have only a licence to practise physic within the precincts above described. The second class is styled in Latin. The first class those who have received that licence, whose licence also shows that they are admitted to the order of fellows. It is since has often been called a *licence* but on it confers no degree, and is not properly applied according to its restricted signification.

The common law having given every man a right to practise in any profession or business in which he is competent, the act of Henry VIII must be taken to this. That left every man free to practise in any other profession or business in which he is competent, and has appended the right and privilege to be judge of his competency. (*W. Hesk.*, p. 38.) The mode of examination is wholly in the power of the college, which has conferred the immediate direction of it to the masters. It can however also appoint at the desire of the masters' chapter all the persons of fellows who may think proper to be present, and that they may be put to the examination. And they think fit, and that the fellows may have opportunity of examining themselves if so minded, it is appointed that all examinations shall be placed at once and that certain regular intervals. (*Ibid.*, p. 41.)

The order of Candidates was abolished

in 1570, as above stated, but there were reserved to students then in the universities of Oxford and Cambridge their *inchoate* rights.

The order of Fellows comprises those who are admitted into the fellowship, community, community, or society of the college. The charter incorporated all physicians then legally practising in London, so that each of them who thought proper to accept it became *ipso facto* a member or fellow. But as all future practitioners, within the precincts of and seven miles round that city, were required to obtain the licence of the college, there soon arose two orders of the practitioners. The fellows attempted by various by-laws to limit their own number, but seem to have considered the licentiates as members of the college, or the commons, and themselves as to make a select only for the purpose of government. To this state of the society the statute of Henry VIII seems to allude in speaking of the "common and fellows." The charter of Charles II expressly notices these orders as forming the body of the society, inasmuch as it directed that new fellows should be elected from among the commons of the society. (*Ibid.*, p. 44.) The by-laws that formerly existed as to the election of fellows have been repealed, and the fellows are the regulations published by authority of the college, by which it is now governed.

Regulations of the Royal College of Physicians of London.—The College of Physicians having for some years past found it necessary from time to time to make alterations in the terms on which it would admit candidates for examination and because the most effective means, has reason to believe that neither the character nor object of those alterations, nor even the extent of the powers with which it is invested, has been fully and properly understood.

The college therefore considers it right at this time to make public a statement of the means which it possesses within itself of conferring the rank and privilege of physician on all those who have or had the advantage of a liberal education, both general and professional, can prove their qualifications by producing

proper testimonials and submitting to adequate examinations.

Every candidate for a diploma in medicine, upon presenting himself for examination, shall produce satisfactory evidence, 1, of unimpeached moral character, 2, of having completed the twenty-sixth year of his age, and, 3, of having devoted himself for five years, at least, to the study of medicine.

The course of study thus ordered by the college comprises—

Anatomy and physiology, the theory and practice of physic, forensic medicine, chemistry, materia medica and botany, and the principles of midwifery and surgery.

With regard to practical medicine, the college considers it essential that each candidate shall have diligently attended, for three entire years, the physicians' practice of some general hospital in Great Britain or Ireland, containing at least one hundred beds, and having a regular establishment of physicians as well as surgeons.

Candidates who have been educated abroad will be required to show that, in addition to the full course of study already specified, they have diligently attended the physicians' practice in some general hospital in this country for at least twelve months.

Candidates who have already been engaged in practice, and have attained the age of forty years, but have not passed through the complete course of study above described may, under special circumstances to be judged of by the Censors, be admitted to examination upon presenting to the censors' board such testimonials of character, general and professional, as shall be satisfactory to the college.

The first examination is in anatomy and physiology, and is understood to comprehend knowledge of each proposition in any of the physical sciences as have reference to the structure and functions of the human body.

The second examination includes all that relates to the causes and symptoms of diseases, and whatever portions of the collateral sciences may appear to belong to these subjects.

The third examination relates to the treatment of diseases, including a scientific knowledge of all the means used for that purpose.

The three examinations are held at separate meetings of the censors' board. The *oral* part of each is carried on in Latin, except when the board deem expedient to put questions in English, and permits answers to be returned in the same language.

The college is desirous that all who receive its diploma should have had such a previous education as would imply a competent knowledge of Greek, but does not consider this indispensable if other qualifications of the candidate be satisfactory. It cannot, however, on account, dispense with a familiar knowledge of the Latin language, as constituting an essential part of a liberal education; at the commencement therefore of each oral examination, the candidate is called on to translate *verbo* into Latin a passage from Hippocrates, Galen, Aretæus, or, if he declares that, he is, any rate, expected to construe into English a portion of the works of Celsus, Sydenham, or some other Latin medical author.

In connection with the oral examinations, the candidate is required, on the separate days, to give written answers in English to questions on the different subjects enumerated above, and to translate in writing passages from Greek or Latin books relating to medicine.

The qualifications required for the Licentiate, i. e. persons approved for practicing physic out of the city of London and seven miles thereof pursuant statute 14 & 15 Henry VIII. chap. sect. 3, are the same as those above set for Licentiate or members.

Those who are approved at all examinations receive a diploma under common seal of the college.

The college gives no particular regard as to the details of previous education or the places where it is to be obtained. It will be obvious however, from a reference to the character and extent of study above described, the manner in which the examinations are conducted, and the mature age of the candidates,

(5 Geo. IV. c. 113.) Vict. c. 91.) The 1. Geo. IV. c. 49. for encouraging the capture of piratical vessels, provides that offenders, whether sailors and others, actually on board any vessel at the taking or destroying any piratical vessel, shall receive the same of and for each pirate taken or killed during the attack, and the sum of 5*l*. for every other man of the crew, not taken or killed, who shall have been alive on board the pirate ship at the beginning of the engagement.

Persons guilty of piracy were formerly tried before the judge of the Admiralty court, but the stat. 28 Henry VIII. c. 12. enacted that the trial should be before commissioners of oyer and terminer, and that the course of the proceedings should be according to the law of the land. Further provision was made with respect to the trial of offenders on the high seas by the statutes 22 Geo. III. c. 12. 43 Geo. III. c. 113. 45 Geo. III. c. 54. and now, by the stat. 4 & 5 Wm. IV. c. 36. § 23 the trial of offenders committed on the high seas is in the Central Criminal Court. Piracy is in some cases punished with death, in others by transportation. (Law, CRIMINAL, p. 169, 170.)

PIRATE. [Piracy.]

PIX, TRIAL OF THE. [MORT.]

PLAINTANS. ACHANIAN LAWS.]

PLEDGE, a thing valued delivered for a temporary purpose and security to the bailee (receiver), for the performance of some stipulation on the part of the bailor (the deliverer). When the pledge is for a debt, more especially where it is given to secure a loan at interest, it is commonly called a pawn. [PAWN-TAKING.] In bailments the degree of care required from the bailee varies according to circumstances. When the bailment is for the sole benefit of the bailee, he is bound to use the greatest care, and is excused by nothing but unavoidable accident or irresistible force. When the bailment is for the mutual benefit of bailor and bailee, the bailee is bound to take the same care of the thing as a prudent man usually does of his own. When the bailment is for the

the bailor keep the goods bailed as carefully as he does his own, however he might be more indifferent when the law of bailments refers the measure of pledge to each of these classes. Perhaps the construction of *extra ducit* is a certain extent, he is required to be as good as between the effects of which the pledge is intended to secure, and the engagements which it is intended to protect. First, the pledge is gratuitous, though rarely, given for the benefit of the pledgee, as where, after contract is completely made, one party gives to the other a pledge for its performance. Secondly, which is the ordinary case, the pledge may be for the mutual benefit of bailor and bailee, as in the case of a loan of goods or loan of money at interest, accompanied by a pawn, in which case the pawn gives security to the bailee and forms credit for the bailor. Thirdly, the pledge may be given for the purpose of obtaining a gratuitous loan of goods or of money, or of procuring some other advantage to the bailor only. It will appear that in the first of these three cases the bailee would be liable to the consequences of slight negligence, in the second, for the consequences of want of ordinary care, and in the third for gross negligence only.

The pledgee is bound to return the pledge and its increments, if any, on being requested so to do, after the performance of the engagement. The obligation is extinguished if the pledge has ceased to exist by some cause for which the pledgee is not answerable. But he is responsible for all losses and accidents which happen after he has done something inconsistent with his duty as pledgee, or has refused to do his duty. When the full amount of the debt secured therefore is tendered and refused, and the pledge is detained, the pledgee is at the sole risk of the pledgee. It is so if the pledgee misuses the pledge. In the case where the pledge has sustained injury from the wrongful act or default of the pledgee, the owner may recover damages to the amount of the injury, in an action on the case. By the act of pledging, the pledger impliedly warrants

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PIRATE. [PIRACY.]

PIX, TRIAL OF THE. [MINT.]

PLEBEIANS. [AGRARIAN LAWS.]

PLEDGE is a thing bailed (delivered for a temporary purpose as a security to the bailee (receiver), for the performance of some engagement on the part of the bailor (the deliverer). When the pledge is for a debt, more especially where it is given to secure a loan at interest, it is commonly called a pawn. [PAWN-BROKER.] In bailments the degree of care required from the bailee varies according to circumstances. When the bailment is for the sole benefit of the bailee, he is bound to use the greatest care, and is excused by nothing but unavoidable accident or irresistible force. When the bailment is for the mutual benefit of bailor and bailee, the bailee is bound to take the same care of the thing bailed as a prudent man usually does of his own. When the bailment is for the sole benefit of the bailor, it is sufficient if

the bailee keep the goods bailed as carefully as he does his own, however negligent he may be. Different writers on the law of bailments refer the contract of pledge to each of these divisions. Perhaps the conflicting opinions may, to a certain extent, be reconciled by distinguishing between the different objects which the pledge is intended to secure and the engagements which it is intended to protect. First, the pledge is sometimes, though rarely, given for the sole benefit of the pledgee, as where, after a contract is completely made, one party gives to the other a pledge for its performance. Secondly, which is the ordinary case, the pledge may be for the mutual benefit of bailor and bailee, as in the case of a loan of goods on hire or of money at interest, accompanied by a pawn, in which case the pawn gives security to the bailee and purchases credit for the bailor. Thirdly, the pledge may be given for the purpose of obtaining a gratuitous loan of goods or of money, or of procuring some other advantage to the bailor only. It would appear that in the first of these three cases the bailee would be liable for the consequences of slight negligence; in the second, for the consequence of the want of ordinary care, and in the third for gross negligence only.

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... ..
... ..

[The page contains approximately 18 lines of handwritten musical notation on staves.]

The first of these is the fact that the
 of the present is the result of the
 of the past. The second is the fact that
 the future is the result of the present.
 The third is the fact that the present
 is the result of the future. The fourth
 is the fact that the future is the result
 of the present. The fifth is the fact
 that the present is the result of the
 future. The sixth is the fact that the
 future is the result of the present. The
 seventh is the fact that the present
 is the result of the future. The eighth
 is the fact that the future is the result
 of the present. The ninth is the fact
 that the present is the result of the
 future. The tenth is the fact that the
 future is the result of the present.

The water of the ...
 ...
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[illegible]

und die in der Folgezeit nach der Zeit
der Gründung an der Spitze der Bewegung

[illegible]

and the other is with me. We are very
 glad. The present is what I had

remedy for this by giving to the creditor a real action, called *Serviana actio*, against any person who was in possession of the thing pledged, for the purpose of recovering it, and the extension of this right of action, under the name of the *quasi-serviana actio*, also called *hypothecaria*, gave to the *hypotheca* the full character of the *pignus*.

Thus the Roman law recognised the *pignus*, which arose from the *contractus pignoris*, and the *hypotheca*, which arose from the *factum hypothecæ*. But there were other cases which in the Roman law were considered cases of *pignus*.

The *pignus prætorianum* arose when a creditor, by a judicial decree, was allowed to enter into possession *mittebatur in possessionem*, either of the whole property of a debtor or any part of it; but there was no *pignus* till the creditor took possession. It has been conjectured that this kind of *pignus* owes its origin to the old *pignoria capio*. (Gaius, iv. 26, &c.)

There was also the *tacit hypotheca*, which was founded on certain acts. In the case of *predia rusticæ*, the fruits of the ground were a *pignus* to the owner for the rent, even if there was no agreement to that effect, which is a case of the Scotch law of hypothec, and if a man lent money for the repairs of a house, the building became a *pignus* for the debt.

The creditor, though in possession of the pledge, could not use it or take the profits of it without a contract to that effect, which was called *antichresis*, or *mutual use*. If he took the profits, he had to render an account of them when his debtor came to a settlement with him, but he was entitled to an allowance for all necessary expenses laid out on the thing pledged, as, for instance, for the repairs of a house.

After the time agreed on for payment was passed, the creditor had the right of selling the pledge and of retaining his debt out of the produce of the sale. If the produce of the sale was not sufficient to discharge the debt he had a personal action against the debtor for the remainder. Originally perhaps he could only have this right of sale by express contract, but subsequently the right to sell (*ius distrahendi sive vendendi*) was

an essential part of the contract of pledge. Though the creditor was not the owner of the thing (*dominus*), still he transferred ownership to the purchaser, a doctrine that is only intelligible on the supposition that he sold it as the owner or agent of the debtor. But he could only sell the thing in respect of the debt for which the thing was pledged, and not in respect of other debts due to him from the debtor, though he apparently retained the surplus of its value in his hands as a satisfaction for other debts. The power of sale could be exercised pursuant to the terms of the contract, and when there was no contract as to the form and manner of sale, the law prescribed the mode of selling, which the creditor was bound to observe strictly. It was once a condition insert in the contract of pledge, *Commisoria*, that is a condition, the virtue of which the thing pledged became the absolute property of the creditor if the money was not paid at the time agreed on. But by a constitution of Constantine (*Cod.*, viii. 1, tit. 35) it was forbidden to insert such a clause in the contract. If anything remained after satisfying the creditor, it was to be returned to the debtor.

A thing might be pledged to several persons in succession, whose claims were to be satisfied according to their rank in time. But there were some exceptions to this rule introduced by special laws which gave a preference to certain persons and claims, independent of their rank in time, and the constitution of a priority to a pledge which was contracted by a public instrument *instrumentum publicè confectum*, over every other pledge, was to be proved by any other means. This law was intended to prevent fraudulent agreements by which a creditor would be antedated.

When there were several creditors, the one who had the priority over all was to sell and pay himself the debt, if any, belonged to the creditor next in order, and so on till the debt was exhausted. If a creditor was posterior in order of time,

to the place of him who had the thing, he could do so by paying him 100 and he then occupied successively the same place and had the same capital in great credit. This doctrine was based on the assignable character of a man, for though the pledgee was not owner of the thing, and could only have the nearest already mentioned, could transfer his interest to any one and could even transfer to a third party the person who in the end pledge was released from such of his special contract. (See, 20, tit. 1, c. 1.)

When a subsequent creditor lent a sum of money which was lent to the preservation of the thing pledged, the creditor, for the purpose of making it his, had a priority over the first creditor on the ground of having by his loan secured the thing. (See, 20, tit. 1, c. 1.) The same rule, though somewhat limited, prevails in our own law as to money lent on the security of a pledge.

As the pledgee remained the owner of the thing pledged, he could of course sell the thing, but he could not take the thing and give it to the pledgee. The creditor who was in possession of the thing was answerable for any loss, but he was not liable for any loss which he might incur by fire or theft, or by any other cause which he could not prevent.

A pledge was received in various ways, by the delivery of the thing, by the creditor retaining the thing by the debtor paying the debt, and in other ways. When the debtor offered the thing to his creditor, he was entitled to have the pledge restored to him. This right he obtained by his wife paying the debt which was an act in personam, and not by her delivering the thing, or by the mortgage of the pledge had been sold by the creditor. The creditor had a contrary right in a case against the debtor for a sum of money, as to the pledge, for he found in the matter of the pledge an obligation to him for better metal, and so on.

The Roman law of pledges has been much improved by modern writers at great length. A comprehensive view of it is contained in Struckmann's 'Institutiones Juris Romani,' (Munich, 1822) in Marschall, 'Lehrbuch der Institution des Röm. Rechtes,' Leipzig, 1829. Puchta, 'Cursus der Institutionum,' (1841), first ed., Leipzig, 1842; and in Astle's 'Law of Pledges or Pawns,' London, 1792, see also 'Dig.' 20, tit. 1, c. 1, 12, tit. 2, 'Instit.' iv., tit. 1, 'Cod.' ii., tit. 11, &c.

PLENIPOTENTIARY (Ambassador) [Common, Rights of]

PLAUGHBORE (Common, Rights of)

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POLICE is that department of government which has for its object the safety and peace of the community.

Its primary object is the prevention of crime and the pursuit of offenders, but the police system also serves other purposes, such as the suppression of tumults, the preservation of order in great assemblies, the removal of obstructions and nuisances, and the enforcing of laws which relate to the police itself.

In the Anglo-Saxon period the sheriff of each county, chosen by the freeholders, was the chief officer for the execution of the peace, and in his half-yearly visitations to each hundred in the county he inquired whether there was any relaxation of the efficiency of the measures for obtaining this object. The hundred originally consisted of ten divisions, each containing ten freeholders, mutually pledged to preserve tranquillity within their district. All males above the age of twelve were obliged to appear at the sheriff's visitation to state the district to which they belonged and to be sworn, to keep the peace. One out of every ten freeholders had presidency of his company, and the whole were bound to bring delinquents to justice within thirty days or forfeit being themselves liable to punishment. The population was thinly scattered, every man was known to his neighbours, and no man could depart from his dwelling without the consent of his fellowpledges; and the consent of the sheriff was necessary to enable a man legally to go out of his own county. No man could enter a neighbouring hundred without being recognised as a stranger, and if there was any suspicion, a hue and cry was raised if the

stranger could give no good account of himself. [HUE AND CRY.]

After the Conquest, the advantages of the system were recognised by several of the Norman kings, particularly by William I., and by Henry I. in the early part of his reign. William I. ordered that every freeman should be under pledges, and Henry I. that views of frank pledge should be taken in order that none might escape responsibility. But a great innovation was made in the Anglo-Saxon system, when the sheriff, instead of being elected by the freeholders, was appointed directly by the king, and the sheriff's "torn," or half-yearly visitation, was soon neglected.

When Henry I. instituted the office of justice itinerant, the functions of the sheriff became of still less importance. By the stat. Merton, c. 10, passed 20th Henry III. (1236), freemen who owed suit to the county or hundred court were allowed to appear by attorney. The stat. Marl., c. 10, c. 24, passed in the 52 Henry III. (1264), dispensed with the attendance of the baronage and clergy at the sheriff's court unless their attendance was specially required, and it also prohibited the justice-itinerant from amercing townships on account of persons above the age of twelve years not having been sworn in pledges for keeping the peace. By these various measures the ancient system was greatly impaired, and the new laws which were introduced from time to time for the purpose of repressing crime do not seem to have been very successful. In 1277, nine years after the passing of the statute of Marlborough, the absence of "quick and fresh pursuit" of felons is noticed as an evil which was increasing. To supply the energy and alacrity of the old system, fines and penalties were imposed by the stat. Westminster, prim., 3 Edward I., sec. 9, on all who neglected to pursue offenders. The statute directs that "all generally be ready and appareled at the commandment and summons of the sheriff, and at the cry of the county to pursue and arrest any felons when any need is." The statute of Winchester, 13 Edward I. (1293), endeavoured to maintain the spirit of the Anglo-Saxon laws

by making the county or hundred responsible in case of a delinquent not being forthcomg, and the duty of apprehending him was cast upon all the king's subjects. This statute also regulated the office of constable, an officer who succeeded the Anglo-Saxon hundred-tything man. [CONSTABLE.] The prevention of crime, as well as the pursuit of criminals, was also one of the primary duties of constables, and they were charged to make presentment at assizes, sessions of the peace or leet, of all blood sheddings, affrays, outeries, trespasss and other offences against the peace. The justices to whom these presentments were made in the first instance, reported directly to the justice-itinerant, or once to the king or his privy council, and the supreme executive made provision accordingly. At the same time the responsibility cast upon the hundred increased the vigilance of the inhabitants, and this responsibility extended to individuals in many cases. The following extracts from the Year-Books of the Exchequer are instances of this: "3 Edward I., Sussex: murder and robbery in township of Tyndon amerced, because it happened by lay, and they did not take the offender." "6 Edward II., Kent: manslaughter (upon a sudden) committed in the highway of Wrotham: three bystanders amerced because they were present when the aforesaid Robert killed the aforesaid John, and did not take him." And in the reign of Henry II. both the popular vigilance which the system had created leads a writer of the day to remark that "every Englishman is a serjeant to take the thief, and who sheweth negligence therein do not only incur evil opinion therefore, but hardly shall escape punishment."

Instead of being almost entirely engaged in agriculture, as in the Anglo-Saxon period, and for several centuries after the Norman conquest, the population is now occupied in great diversity of employments. Persons so engaged, and the more numerous class who live by manual labour, cannot now follow up the "quick and fresh pursuit" of felons, the cry of the hundred or county: and a duty is incompatible with their ordinary

stance. Viewed at first with suspicion and dislike, from its somewhat military organization, the clamour with which it was assailed has died away, and public opinion is now in its favour. Each parish had formerly managed its own police affairs, and before 1829, the total police force of the metropolis consisted of 797 parochial day officers, 278² night watch, and upwards of 100 private watchmen: including the Bow-street day and night patrol, there were about 4100 men employed in the district stretching from Brentford-bridge on the west to the river Lea on the east, and from Highbury on the north to Streatham on the south, the City of London being excluded. The management of this large force was of varied and often of conflicting character. The act of parliament which created the new police force (10 Geo. IV. c. 44) placed the control of the whole body in the hands of two commissioners, who devote their whole time to their duties—they are immediately responsible to the home secretary of state. By the 2 & 3 Victoria, c. 47, the metropolitan police district may be extended to any parish or part of a parish situated within 15 miles of Charing Cross, the first act having limited its operation to a distance of twelve miles. The number of men of each rank serving in the metropolitan police force, at the present time (March, 1846), is as follows:—1 superintendent, salary 600*l.*, 18 asperintendents, of whom 15 have salaries of 250*l.* and 2 have a higher and 1 a lower salary, 114 inspectors, 88 of whom have 118*l.* for a year, 485 sergeants, of whom 474 have 63*l.* 14*s.* 4131 constables, those of the first class (1071), have 54*l.* 12*s.*, second class (2013) 42*l.* 8*s.*, third class (1049) have 44*l.* 4*s.* The sergeants and constables are allowed clothing, and each married man of these two ranks is allowed 40 pounds weight of coals weekly throughout the year, each single man is allowed 40 pounds weight weekly during six winter months, and 20 pounds weight weekly for the remainder of the year.

The total number of the force in 1840 was 3486, and in 1846 the number was 4748. They are formed in divisions, and each division is employed in a distinct

district. Every part of the metropolis is divided into "beats," and it was not until 1840 that the force was divided into day and night. The total disbursement of the force, for the year 1845, amounted to 23,512*l.*, one fourth is paid by the treasury out of the revenue, and the other three fourths by the respective parishes. Since August 1845, the horse patrol, consisting of 71 men, who are employed within a radius of several miles around London, is incorporated with the metropolitan police. The Thames police consists of 1000 men, each of whom has charge of a boat and a number of constables is 27. The Thames police is under the immediate jurisdiction of the magistrates of the Police-office. The City of London manages its own police affairs, and have been placed under a far more efficient system since the establishment of the metropolitan police force.

The police of the metropolitan district within fifteen miles of Charing Cross (exclusive of the city of London) is regulated by the Acts 10 Geo. IV. c. 44, and 2 & 3 Vict. c. 47, and they form the police code for several parts of the population of England and Wales.

The officers and men of the metropolitan police have been at various times engaged in other places to preserve the peace when the local force has been incompetent. In nearly all the counties constituted under the Municipal Corporations Act (5 & 6 Will. IV. c. 76), a police force has been established as far as possible on the same footing as the metropolitan police. In the metropolis any burglary or serious offence comes to the knowledge of the police, or is reported to the superintendent or other officer of the division or subdivision where the offence occurred immediately examines the witnesses, or makes a preliminary report upon them and the means of their apprehension. A daily proclamation is made to the court of all the chief occurrences which have taken place during the preceding four hours in every division of the metropolis, upon which previous instructions are given as to the

development as may seem to require. Upon these reports made at such intervals as may be found practicable it is hoped to appear that in any district there has been a sufficient depth of view, additional strength to directed views, or explanation of any kind of any method will appear to coincide with and substantiate. Naturally to the most important point as the depth and day in providing the population and any pressing social issues, but the attention is directed to present legislation in case of a definite regarding industrial and other social and in keeping a vigilant eye upon the conditions of public safety and crime. The same service is provided with more or less efficiency in the larger towns which have the services of a trained body of men.

The expansion of the police force in the of the metropolis, in 1945, amounted to about the greater part of whom (1,000) was drawn out of that which had been left. The salary of metropolitan police officers was £240/- a year, and each of the others 200/- a year, treated alike. The five (qualifications and Police Officers) were at the different ranks amounted to about 1000.

The difficulty of reorganising the present constabulary has hitherto retarded the general improvement of the force, while the increased vigilance of the towns has required such a constant and increasing. In October, 1941, a commission was appointed under the name of the "Committee on the best means of establishing an efficient constabulary force for the counties of England and Wales" and the commissioners have since taken much to consider the question of the improvement in such a fully modern division in the country. It was found that out of 47 divisions the majority was in need of their personnel and the appointment of a paid police force. It is clear as they could not be paid unless they were paid, with a view that the police force should be paid, and the appointment of a paid force of additional constables was recommended. In 1942, the better reorganisation of the present constabulary in a division it was considered that further security was necessary, and in 1943, some an opinion was given that an alternative

was required. The value of the present constabulary system of fully independent the impact of the constabulary Commission in 1940. Some of their recommendations on the value of the present constabulary system of police administration in the present situation. In a full report made to the House of Commons in 1943, an attempt was made to remove some of the obstacles and a very clear and detailed account of the plan was put forward with the view of the 23 November 1943. But the measure was regarded as too elaborate, and introduced as many recommendations as to measure the intended effect.

The following is a brief summary of the principal reasons which induced the constabulary Commission to recommend the appointment of a paid police force in the present police constabulary. The want of organisation in any point up to the last year, 1941, and each person living by the constabulary could not more to the community than a paid constable. It is the experience of police constabulary is a very small, but it is not so particularly in England for the experience of other, while the means for the appointment of this department is not so sufficient. Even the money at present contributed by voluntary associations for the production would, it is thought, go far towards establishing an effective constabulary force, and this would be also the saving of time (several thousand persons can actually turn into almost one hundred constables in a matter of time which is paid for maintenance. The extent of the force required is estimated at rather more than 2000 men, and the annual cost at a minimum of £100,000, including expenses of management and other charges, the whole cost would not exceed £120,000 in the present value of real property in England and Wales in 1942, and it is proposed that one-fourth of the amount should be drawn out of the constabulary fund, and the other three-fourths out of the county rate. The average number of constabulary in England is upwards of 100,000 annually, which number, it is estimated, represents a total of 100,000

persons living wholly by depredation, to which must be added those who live partially by such means and escape detection, to meet which active body a trained force of 8,000 men appears to be a moderate estimate. The commissioners recommended that a disposable force of 300 or 400 additional men be kept for extraordinary services. The patronage connected with a paid constabulary should be vested in those who are directly responsible for its efficiency, and local supervision and control might be made consistent with this arrangement. The success of such a force would of course depend to a great extent upon its being seconded by popular feeling, and, contrary to the opinion of many persons, it would be less likely to infringe upon personal liberty than a body of isolated individuals, for an acquaintance with legal duties forms part of the training of a combined force, which must in all cases have general rules for its conduct and government. Should a trained constabulary be established, the commissioners recommended that the men be changed from one district to another in the same manner as the officers of the Excise establishment.

The government has not thought proper to take any steps for the general establishment of a trained constabulary force in England and Wales; but in 1839 an act was passed (2 & 3 Vict. c. 93) which enabled the justices in quarter sessions to appoint county and district constables, and thus left the improvement of the police to their discretion. A report must be previously made to the secretary of state showing the necessity of appointing additional constables. By 2 & 3 Vict. no more than one constable could be appointed to each one thousand of the population; but by 3 & 4 Vict. c. 88, this limitation is done away with. The expenses of the police force, rural police are charged upon the county rate in the several divisions in which the force has been appointed. To secure unity of action and general uniformity, the secretary of state is empowered to frame rules for the regulation of the force. The men employed in it are not to exercise any other employment, nor allowed to vote at

elections for a member of parliament. Under the provisions of these acts a rural police force has been appointed in several counties. The act 3 & 4 Vict. c. 88, contains provisions for the consolidation of the borough and county police in cases where the respective authorities desire to enter into such an arrangement.

In addition to the two acts above mentioned, there are other statutes which enable magistrates to obtain any additional police force which may be requisite to ensure the conservation of the peace. [CONSTABLE.]

The Irish constabulary partakes more of a military character than the London police or the rural police of the English counties. They are stationed in barracks, have fire-arms, and are removed from one part of the country to another. In 1845 the Irish constabulary consisted of 9193 persons, under the command of an inspector-general, who has a salary of 1500*l.* a year. There are a deputy inspector-general with a salary of 1000*l.* and a second deputy with a salary of 800*l.* There are 2 provincial inspectors, 18 paymasters, 35 county inspectors, 210 sub-inspectors, 26 head constables, 1458 constables, 6368 sub-constables, first class and 1079 of the second class. Connected with the police system there are 6000 petty magistrates, with salaries of from 350*l.* to 1000*l.* a year, besides certain allowances. The total expense of the force in 1845 was 451,577*l.* of which sum 180,080*l.* was borne by counties, cities, and towns, and 271,497*l.* was charged upon the Consolidated Fund. The prime minister, Sir Robert Peel, in his speech on the general policy of the country on 27th January, 1842, proposed to charge the whole expense of the Irish Constabulary Force upon the public income, partly with a view to the relief of landlords and partly in order that the executive may have a more complete control over the force.

POLICY and **POLITY**. Policy is generally used to signify the line of conduct which the rulers of a nation adopt on particular questions, especially with regard to foreign countries, and according to our opinion of that particular line of conduct we say that it is good or bad.

1. The first part of the document is a list of names and their corresponding addresses. The names are: John Doe, Jane Smith, and Bob Johnson. The addresses are: 123 Main St, 456 Elm St, and 789 Oak St.

2. The second part of the document is a list of names and their corresponding addresses. The names are: Alice Brown, Charlie White, and David Green. The addresses are: 101 Main St, 202 Elm St, and 303 Oak St.

3. The third part of the document is a list of names and their corresponding addresses. The names are: Emily Black, Frank Gray, and Helen Blue. The addresses are: 404 Main St, 505 Elm St, and 606 Oak St.

4. The fourth part of the document is a list of names and their corresponding addresses. The names are: George Brown, Irene White, and Jack Green. The addresses are: 707 Main St, 808 Elm St, and 909 Oak St.

5. The fifth part of the document is a list of names and their corresponding addresses. The names are: Karen Black, Larry Gray, and Mary Blue. The addresses are: 1010 Main St, 1011 Elm St, and 1012 Oak St.

6. The sixth part of the document is a list of names and their corresponding addresses. The names are: Norman Brown, Olivia White, and Peter Green. The addresses are: 1111 Main St, 1112 Elm St, and 1113 Oak St.

7. The seventh part of the document is a list of names and their corresponding addresses. The names are: Rachel Black, Steven Gray, and Tracy Blue. The addresses are: 1212 Main St, 1213 Elm St, and 1214 Oak St.

8. The eighth part of the document is a list of names and their corresponding addresses. The names are: Victor Brown, Wendy White, and Xavier Green. The addresses are: 1313 Main St, 1314 Elm St, and 1315 Oak St.

9. The ninth part of the document is a list of names and their corresponding addresses. The names are: Yolanda Black, Zachary Gray, and Adam Blue. The addresses are: 1414 Main St, 1415 Elm St, and 1416 Oak St.

10. The tenth part of the document is a list of names and their corresponding addresses. The names are: Brian Brown, Cynthia White, and Daniel Green. The addresses are: 1515 Main St, 1516 Elm St, and 1517 Oak St.

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The first part of the document is a letter from the author to the editor of the journal. The letter is dated 19th March 1964 and is addressed to the Editor, Journal of the Royal Society of Medicine, 11, St Andrews Place, Regents Park, London, N.W.1. The author, Dr. J. H. G. D. Jones, is a Lecturer in the Department of Pathology, University of Liverpool, Liverpool, L69 3GB. The letter is written in a formal, professional style and discusses the author's interest in the journal and the possibility of contributing to it. The author mentions that he has been reading the journal for some time and has found it to be of high quality and interest. He also mentions that he has been asked to contribute to the journal and is therefore writing to the editor to express his interest and to ask for more information about the journal's requirements and procedures. The letter is signed by Dr. J. H. G. D. Jones and is dated 19th March 1964.

[The page contains several lines of handwritten text, which is mostly illegible due to fading and blurring.]

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The first thing I noticed when I stepped out of the car was the cold. It was a sharp contrast to the warm blanket I had been sitting under. I looked up at the sky, which was a deep, dark blue, and felt a sense of peace. The stars were visible, and I knew that I was in a good place. I took a deep breath and felt the cool air fill my lungs. I knew that this was my chance to start over, to begin a new life. I had been told that the mountains were a good place to live, and I was glad to be here. I had heard that the people were friendly and that the food was good. I was glad to be here, and I knew that I was in a good place. I took a deep breath and felt the cool air fill my lungs. I knew that this was my chance to start over, to begin a new life. I had been told that the mountains were a good place to live, and I was glad to be here. I had heard that the people were friendly and that the food was good. I was glad to be here, and I knew that I was in a good place.

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1. The first step is to identify the problem. This involves understanding the current situation and the goals that need to be achieved.

2. Next, it is important to gather information. This can be done through research, interviews, or data analysis.

3. Once the information is gathered, the next step is to analyze it. This involves looking for patterns, trends, and potential solutions.

4. After analyzing the information, the next step is to develop a plan. This involves deciding on the best course of action and setting specific goals.

5. The final step is to implement the plan. This involves putting the plan into action and monitoring progress.

There is a great deal of interest in the United States in the present situation in the Middle East. The United States is a great power and it is interested in the peace and stability of the Middle East. The United States is a great power and it is interested in the peace and stability of the Middle East. The United States is a great power and it is interested in the peace and stability of the Middle East.

body of the people;" but everybody does not see what a Government should do or should not do in order that this revenue may be the greatest and most beneficially distributed.

Those who at the present day maintain that agriculture should be protected, or, expressing the proposition in other terms, say that native industry ought to be protected, assume that a Government ought to regulate the manner in which a nation shall acquire its revenue. To be consistent they should go further: a Government should regulate the mode in which the revenue shall be distributed, accumulated, and used. In fact Governments by their acts, and mainly by the weight and kind of their imposts, do this in some degree, though their object may not be to do this. But to protect native industry is to regulate purposely and designly part of the process by which a nation produces the sum total of that revenue of which all persons, landowners, capitalists and labourers, get some part. This protection consists in excluding many articles of foreign produce, or laying heavy customs duties on them, in order that those who produce such articles at home may get a better price for them. Thus he who has to buy the articles must give more for them than he would if there were no protection, and precisely to the amount of this higher price are his means directly diminished for buying anything else that he wants for productive use or simple enjoyment. The indirect consequences of such Government regulations also diminish his own productive powers.

The French Economistes, as they are termed, of whom Quesnay was the head, considered agriculture as the only source of wealth, and had other opinions about agriculture as distinguished from manufactures, which are not well founded; but they did not for that reason maintain that agriculture should have any exclusive protection—on the contrary, they maintained that all taxes should fall on land, and that trade in corn should be freed from the restrictions to which it was then subjected between one province and another in France.

It is not easy to make an exact classification of the subjects which writers on

Political Economy discuss. The matter which they do discuss may be generally enumerated as follows. — The production of wealth and the notion of wealth, which comprehend the subjects of Accumulation, Capital, Demand and Supply, Division of Labour, Machinery, and the like. But all the matter of Political Economy is so connected, that every great division which we may make suggests other divisions. The Profits of Capital and Wages of Labour, the Rent of Land, and the nature of the Currency, are all involved in the notions of Accumulation, Capital, and so forth. No treatise has perhaps yet appeared which has exhibited the subject of Political Economy in the best form of which it is susceptible.

The way in which "the Revenue of the great body of the people" is distributed, an inquiry only next in importance to the mode in which it is produced, and the mode and proportions in which it is distributed react upon future production. If who receives anything out of the "Revenue" is, by the supposition, a person who has contributed to it, either as a landowner, a capitalist or a labourer. If he be neither a landowner, a capitalist nor a labourer, he is supported out of the public revenue either by burs, or by pensions, or by the bounty of parents or friends. Considering these cases, a man's title to a part of "the Revenue of the great body of the people," if it is an honest title, is either the title which he has to the produce of his labour or capital, of which a portion has been appropriated to him in conformity to the rules which establish ownership, or the title of one who labours for him and receives his pay pursuant to the terms of the contract. The owner of land and capital, if he does not employ it himself, lets it out, and have the use of it in consideration of interest or rent or some fixed payment.

The use which a people shall make of their revenue is the last great division of the subject. The analogy here between Economy in its proper sense and the Economy of a People is pretty close. Judicious Economy is the making the best use of one's income, and the best use is to spend it on things of necessity first, on things which gratify the taste, and the understanding next, but to

matter which all economical writers agree in considering as belonging to Political Economy, that we arrive at the more exact notion of the objects and limits of the science, or at such objects and limits as may be comprehended within a science. The limit which is the last to the last, Consumption, may be either Consumption for the purpose of further production, or Consumption for the sole purpose of enjoyment. This Consumption for the purpose of enjoyment is a kind of consumption which some economical writers have scarcely thought of, though not the rest of the world are the keep of it and labouring for it. This Consumption for enjoyment may to some extent and in some cases coincide with or contribute to further production, but as such, as Consumption for enjoyment, separately, it must not be confounded with any other kind of consumption. The true basis of all those investigations which are labelled under the name of Political Economy is this: That man desires to enjoy, and that he will labour in order to enjoy. The nature of his enjoyments will vary with the various states of society in which he lives, with his moral, social, and intellectual character. As he labours in order to enjoy, and as one man gives his labour in exchange for another man's labour, it follows that the exchangeable value of every man's labour will ultimately depend on the opinion of him who wishes to have the fruits of such labour.

It therefore concerns all who labour that they should stand on what the value of their labour depends. It is not the value of a man's labour to himself which we have to consider here, but the value of it to others. A man may value his own labour as he pleases, but if he wishes to exchange it, he will find that it is other persons who then determine its value. The real value is what he can get for it. This fact is well known to all who produce anything to sell, or offer their labour for hire. The value of anything to him who has not the thing, but wishes to have it, is not ascertained by the opinion of him who has it to sell. The price of purchase is a price which is not founded on the wants of the buyers and the quantity or supply of the thing which they desire to

have. There is no formula which accurately expresses the commercial value of this result, nor would it necessarily be invariable. It depends on the nature of the things which purchasers desire also on their necessary wants, and caprice. The wants of the buyers, real efficient demands, singly will means to buy with, and this is a statement. Thus there are two elements of selling price, the demand and the supply. Prices vary for those things which are the necessities, when trade is free of all restrictions, or they are not subject to the same variations of taste and caprice. One of the causes of price, quantity, is here nearly constant, and the risk of variation is mostly in the supply which depends on seasons and other accidents. When the value of a thing depends on an opinion that is liable to change, the supply will be certain on account of the uncertainty of opinion. No man can say with certainty what will be the value of any of a future time, but long experience taught men the probable limits within which the selling prices of most articles of common use will vary, and a knowledge of these limits enables them to decide whether they can undertake to bring the market with any given article to have a reasonable security for a profit. Profit is the condition without which things will not continue to be put for sale. The cost that is expended upon a thing does not determine value, by which is meant the selling price, but the selling price determines whether the thing will continue to be produced. In the case of many new articles, production of them is a pure rash, and long-bought experience alone in such cases teaches a man that he has laboured much to no purpose, that he has a thing to sell, which nobody wishes to. Articles of ordinary consumption regularly produced, because the effective demand combined with the quantity in the market secures a remunerating price. If other articles take the place of which have been in ordinary use, the articles cease to be made. If the articles, owing to improved processes

peculiar circumstances in most countries that affect the happiness of the people in different ways. It is the business of the economist to investigate these circumstances and to ascertain them, whether the circumstances may be the peculiar form of the government, the habits of the people, their ignorance, or any other cause. His problem is to trace to their causes all those conditions which interfere with the enjoyment of the necessities of life, without a supply of which no man can be happy. Whatever he can prove to interfere with such a supply, to diminish such a supply, to make it less than it otherwise would be, is within the province of his investigation; whether it is arbitrary power in a monarch, ignorance in a constitutional government, heavy taxation, restrictions upon the free exercise of industry, or anything else, by whatever name it is called, that interferes with a man's industry, and consequently with his enjoyment. If he carries his inquiries beyond those necessities of life which all men want before they ask for anything else, he will find ample employment in investigating the causes which interfere with or limit the class of secondary enjoyments, those which a man craves for when he has satisfied the first. He will discover that the same kind of restraint or interference often exists in the secondary enjoyments, and that their being limited operates upon the primary wants, and so limits the means of gratifying them also. He will thus approach the solution of a great question, and determine whether the sovereign power should interfere with industry in any way, except to raise money by taxation for the necessary expenses of the administration, and he will endeavor to determine how the required amount of money may be raised so as to curtail each man's enjoyments in the least possible degree.

If the question of freedom from all restraint on industry, except such restraint as may be necessary for the defence of the state, or for the support of the government, is the only one that can be raised, the economist will find that the only way to increase the happiness of the people is to remove all such restraints. The manner in which this may be done is the subject of the next chapter.

shall get more out of the condition now by such organization than by any other mode, is the great question that concerns us all. Knowledge must guide our industry, or it may be fruitless, even though it has perfect liberty of action. Enjoyment is the end to which knowledge alone can lead us. Enjoyment is the sufficient and reasonable satisfaction of the appetites, which must precede the enjoyment of the imagination and the intellectual faculties, the harmonious combination of the two enjoyments is happiness.

The field for the Political Economist is as extensive as Society itself, but labour has certain limits. He may determine when legislation is necessary, when it is wanted, but he does not concern himself about the making of law. He is satisfied if a bad law is repealed, or if, when useful, it is so framed as to accomplish the object. Nor does he concern himself about forms of faith or systems of religion or moral philosophy as such. But he does investigate the mode in which they operate upon industry directly or indirectly, mainly their mode of operation on primary wants, those wants which men seek to satisfy, and which are in some degree satiated, or they must cease to live. The great test, the criterion of the condition of a nation is the condition of those who labour for their bread. If there have sufficient to eat, there is certain indication that others have more than sufficient, and that there is an improvement in the social and moral condition of all classes. But legislation may prevent improvement. It may, therefore, be the province of the economist to show how what the primary wants of a people are satisfied, they may be so far as they are necessary, and to show that such is the case in a nation where the gratification of the secondary wants may be secured with the least possible expense. The economist will therefore be concerned to show that the primary wants of a people are satisfied, they may be so far as they are necessary, and to show that such is the case in a nation where the gratification of the secondary wants may be secured with the least possible expense. They will therefore be concerned to show that the primary wants of a people are satisfied, they may be so far as they are necessary, and to show that such is the case in a nation where the gratification of the secondary wants may be secured with the least possible expense.

The first of these is the fact that the
 number of people who are employed in
 the service industry has increased
 significantly in recent years. This
 has led to a growing dependence on
 the service sector for economic growth.
 The second is the fact that the
 number of people who are employed in
 the manufacturing industry has decreased
 significantly in recent years. This
 has led to a growing dependence on
 the service sector for economic growth.
 The third is the fact that the
 number of people who are employed in
 the agricultural industry has decreased
 significantly in recent years. This
 has led to a growing dependence on
 the service sector for economic growth.

Handwritten musical score on ten staves, likely a manuscript for a piece titled "The Song of the Lark" (as indicated by the title on the previous page). The notation is in a historical style, possibly 18th or 19th century, featuring various notes, rests, and clefs. The handwriting is in dark ink on aged, slightly yellowed paper. The score is written in a single system across the ten staves.

[Faint, illegible handwriting on lined paper]

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1. The first step in the process of the investigation is to identify the problem. This is done by the investigator who is responsible for the investigation. The investigator must identify the problem and then determine the cause of the problem. The investigator must also determine the scope of the problem and the resources available to solve the problem. The investigator must then develop a plan of action to solve the problem. The plan of action must be approved by the appropriate authority. The investigator must then implement the plan of action and monitor the progress of the investigation. The investigator must then report the results of the investigation to the appropriate authority. The investigator must also provide recommendations for the future.

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if there were no other objection. When the wife is a kind of slave to her husband and assists to support him by her labour, a plurality of wives is merely an increasing of a man's slaves with the increased power of sexual intercourse at the same time. That such a mode of life must be a brutalized and a half savage state, is obvious enough, and it is not consistent with any improvement in the condition of women, and on the improved condition of women mainly depends the improvement and civilization of society. If in any country polygamy were carried to a great extent among the rich, the consequence would be that the poor must go without wives, unless the demands of the rich were supplied by importation of female slaves, which is the case in some countries.

That union which exists in the collaboration of a man with one woman makes a family quite a different thing from a family which is founded on the collaboration of a man with more than one woman. Traced out to all their consequences, the two practices produce distinct moral systems which, in nearly every respect, are antipathetic to one another. The advantage and the rule of monogamy through the nations which maintain polygamy might easily discover some weak points in the monogamist practice.

POOR LAWS AND PAUPERISM.

POOR LAWS AND PAUPERISM. A pauper in England is a person who, unable to support himself, receives money or money's worth from the contributions of those who are by law compelled to maintain him wholly or in part. There are many poor persons who are not paupers. He who gets his living by his labour, but receives no legal relief, is not a pauper. He who will not or does not work, but gets his living by begging, is a mendicant. Those who are supported wholly or in part by the voluntary gifts of charitable persons are not paupers.

The causes of pauperism are numerous, and it would be equivalent to an attempt to express most of the phenomena of modern society, if we should attempt to assign all its production or even all its actual causes in any given country. Some of the

causes however are clearly traceable to positive law. Every history of pauper legislation in this and other countries shows that those who have had the power to make laws have not only ignorantly and unintentionally injured society by not perceiving the tendency of their enactments, but have often purposely and designedly attempted to perpetuate defects which they believed to be necessary to society, but which an enlarged experience and a wiser philosophy have proved to be detrimental to the public interest. When the object has been a good one, a legislator has often failed in accomplishing it, owing to ignorance of the proper means. In England pauper interference with the condition of the poor has in some degree prevailed for nearly 500 years. In this country, however, great efforts have been made to improve their condition, nor greater mistakes committed in this branch of government.

The great object of the earlier acts in pauper legislation was the prevention of vagrancy. The 12th Richard II. c. 7, 1388, prohibits any labourer from quitting his dwelling place without a testimonial from a justice of the peace showing reasonable cause for his going, and without such a testimonial a journeyman might be apprehended and put in the stocks. Impotent persons were forbidden to the towns where they were dwelling at the pleasure of the justices, provided the inhabitants would receive them, otherwise they were to go to the places of their birth to be there supported. By acts passed in the 11 and 12th Henry VII. c. 13, 15 and c. 24, impotent persons were required to go to the parish where they had last dwelt for three years, or where they were born, and were forbidden to beg elsewhere. By the 27th Henry VIII. c. 12, 1531, justices were directed to assign to impotent persons a district within which they might beg, and beyond which they were forbidden to beg, under penalty of being imprisoned and kept in the stocks without food and water. Able-bodied persons were to be whipped and forced to return to their place of birth, or where they had last dwelt for three years.

These acts appear to have had no effect

was to be "openly whipped until his body be bloody, and forthwith sent, from parish to parish, the most strait way to the parish where he was born, there to put himself to labour as a true subject ought to do."

The next act on this subject, the 43 Elizabeth, c. 2, has been in operation from the time of its enactment, in 1601, to the present day. A change in the mode of administration was however effected by the Poor Law Amendment Act 4 & 5 Wm IV. c. 76, which was passed in 1834. During that long period many abuses crept into the administration of the laws relating to the poor so that in practice their operation impaired the character of the most numerous class, and was injurious to the whole country. In its original provisions the act of Elizabeth directed the overseers of the poor in every parish to "take order for setting to work the children of all such parents as shall not be thought able to maintain their children," as well as all such persons as, having no means to maintain them, use no ordinary trade to get their living by. For this purpose they were empowered "to raise, weekly or otherwise, by taxation of every inhabitant, parson, vicar, and other, and of every occupier of lands, houses, tithes, messes, &c., such sums of money as they shall require for providing a sufficient stock of flax, hemp, wool, and other ware or stuff, to set the poor on work, and also competent sums for relief of lame, blind, old, and impotent persons, and for putting out children as apprentices." Power was given to justices to send to the house of correction or common goal all persons who would not work. The churchwardens and overseers were further empowered to build poorhouses, at the charge of the parish, for the reception of the impotent poor only. The justices were further empowered to assess all persons of sufficient ability, for the relief and maintenance of their children, and children and parishes. The parish officers were also empowered to bind as apprentices any children who should be chargeable to the parish.

These simple provisions were in course of time greatly perverted, and many

abuses were introduced into the administration of the law. The most mischievous practice was that which was established by the Justices for the county of Berks in the month of May, 1793, when, in order to meet the wants of the labouring population caused by the high price of provisions, an allowance in proportion to the number of his family was made out of the parish fund to every labourer who applied for relief. This allowance fluctuated with the price of the gallon loaf of second flour, and the scale was adjusted as to return to each family the sum which a given number of loaves would cost beyond the price in years of ordinary abundance. This plan was conceived in a spirit of benevolence, but the readiness with which it was adopted in all parts of England clearly shows the general want of sound views on the subject. Under the allowance system the labourer received a part of his means of subsistence in the form of a parish p. s. and as the fund out of which it was provided was raised from the contributions of those who did not employ labourers, as well as of those who did, their employers, being in part to outbid others with the payment for their labour, had a direct interest in perpetuating the system. Those who employed labourers looked upon the parish contribution as part of the fund out of which they were to be paid, and accordingly they lowered their rate of wages. The labourers also looked on the parish fund as a source of wages, independent of their labour wages. The consequence was that the labourer looked to the parish aid as a matter of right without any regard to his real wants, and he received the wages of his labour as only one and a secondary source of the means of subsistence. His character as a labourer became of less value, and his value as a labourer was thus diminished under the corrupted operation of the two causes. In 1832 a commission was appointed by the crown, under whose direction inquiries were made through England and Wales, and the actual condition of the labouring class in every parish was ascertained with the view of showing the evils of the existing practice, and of suggesting some remedy. The labour

under certain conditions, who at the time of their husband's death were resident with them in some place other than the parish of their legal settlement, and not situated in any union in which such parish is comprised.

The 1st section makes some provision as to the burial of paupers.

The 2nd section provides that the commissioners may combine parishes and unions in England for the audit of accounts. By the 3th section the commissioners may subject to certain restrictions the several manor, common, or parishes, and in towns, or such parishes and manors, and school districts, for the maintenance of any class or classes of infant poor not above the age of sixteen years, being chargeable to any such parish or union, or who are deserted by their parents, or whose parents or surviving parent or guardians are so wanting to the placing of such children in the school of such district. By the 11th section the commissioners are empowered to declare parishes, unions, or parishes and unions within the district of the metropolitan police in the city of London, or of the city, town, and borough mentioned in the schedule B annexed to the act, to be combined into districts for the purpose of forming and managing asylums for the temporary relief and training in work, &c. of destitute homeless poor who cannot be kept within a voluntary and who may apply for relief or be otherwise chargeable to the poor rates within any such parish or union.

The 12th section provides for the punishment of persons who are guilty of offences in connection with rates.

The other provisions of the Act are chiefly framed for the purpose of carrying into effect the general objects already described.

One important consequence which has resulted from the better management of the poor law, and which is calculated to produce an important effect on their future condition, is the adoption of measures for the education of children, and in some workhouses. Under the administration of the amended law little or nothing was done towards this object, and in almost every case the child whose misfortune it was to

be brought up at the charge of the parish continued through life dependent upon others for subsistence, and often followed a course of systematic dishonesty. The system of moral, intellectual, and industrial training which has been to some extent engrained upon the administration of the amended law, is calculated to bring up the children of the workhouse to be useful members of society.

It will now be convenient to state how the law stood previously to the passing of the Act 4 & 5 Wm. IV. c. 76 as to relief to the poor and settlement, and then to notice some of its leading provisions.

Every indigent person, whether native or a foreigner, being in any district of England or Wales, in which there was a cess for the maintenance of the poor, had a right to be supplied with the necessaries of life out of that fund. The right depends on statute, and prior to the 4th Eliz. c. 2, which enacted that the churchwardens of every parish, or four, three, or two substantial householders there, to be nominated yearly under the hands and seals of two or more justices of the peace, should be empowered to relieve the poor. (Overseers.) By this statute overseers could be appointed for parishes only. This proved very insufficient, because many large and populous districts were not situated within a parish, and consequently no relief whatever could be afforded for them. In no location many parishes themselves were of such magnitude that one set of overseers could not properly attend to the poor. To supply this defect the 14th Car II. c. 12, authorized the appointment of overseers to any town, that was either extra-parochial or a part of a parish so large as to require distinct relief officers for the maintenance of its poor. Townships are sometimes created also by local acts.

It is the duty of these overseers to raise and administer the fund for the relief of the poor of their district. The fund, which is called the poor rate, is levied by the statute of 13th Car II. on parishes, and by the 22nd Car II. on townships to raise "work or otherwise, by taxation of every

sonal property was rateable by law, the omission of it in the rate was a ground of appeal, because all persons liable are to be rated equally according to their ability. The inconvenience attending this state of things induced the legislature by the 3 & 4 Vict. c. 10, to suspend the enactments which authorised the rating of inhabitants in respect of stock in trade, and by subsequent acts to extend the exemption from this liability to be rated in respect of such property until the 1st October, 1841.

It is unnecessary to make any detailed remarks on taxes and other property which, by the statute of Elizabeth, are expressly made chargeable.

If a parish is unable to furnish a sufficient sum for the maintenance of its poor, any other parish in the same hundred, with the sanction of two justices, or in any other part of the county with the sanction of the justices at quarter sessions, may be called upon to assist the less able parish. This is called *rating parishes* in aid.

The overseers are to collect the rate from the persons rated. If a person refused to pay when called upon, the overseers may obtain a summons from two justices, requiring him to show cause why a warrant should not issue to levy the rate, by distress and sale of his goods; and if no sufficient cause is shown, the payment is enforced accordingly. The party so summoned may show for cause that the rate itself is void, or that he is not liable; he may also, with the consent of the overseers, or Board of Guardians, be excused, if it appear that he is unable to pay through poverty. He may also appeal against the rate, and notice of appeal deprives the magistrates of their jurisdiction to distress until the appeal is decided, unless the objection is solely on the ground of overcharge, in which case the warrant may issue for such a sum as the property was rated at in the last valid rate. The appeal against the rate on the ground of inequality, unfairness, or inconsistency in the valuation of the property rated, may be to justices at petty sessions, from whose decision a *second appeal* lies to the general quarter sessions. The appeal, on the above

grounds, may also be taken to the quarter sessions in the first instance. If the objection be to the principle of the rate itself, or it is intended to dispute the liability of the property to be rated, the appeal lies to the quarter sessions only. In all these cases of appeal, notice of appeal and of the precise objections to the rate must be given to the parish officers, as also to any rated inhabitants that may be interested in opposing the appeal, as, for instance, where his ground of complaint is that they have been underrated.

The overseers, who in some parishes act under the direction of a select vestry, and are assisted by assistant overseers, are to apply the poor rate to the relief of the poor of their parish.

The poor of the parish are, in one year, all those who happen to be in the parish at the time of their being in distress, for the parish in which they happen to be is bound to afford such paupers immediate, or, as it is called, casual relief. But if the same parish were bound also to afford continued relief to, or permanently to maintain, all the destitute who should come within it, the burden of supporting the poor might press very unequally upon different parishes. Paupers would then influence by their own fancy, or instigated to exonerate some other parish, have the power of fastening themselves for ever on any particular parish, or of roaming at pleasure from one parish to another in restricted vagrancy. The 11 & 12 Vict. c. 12, was passed to obviate these evils, and is the foundation of the present law which determines the parish that a pauper belongs to, and gives the power of removing him to it. This law is called the law of settlement. The statute enables two justices, upon complaint made by the churchwardens or overseers of the poor of any parish, or any justice of the peace, within forty days after a person coming to settle there, in any tenement under the yearly value of 10*l.*, by their warrant to remove such person to the parish where he was "last legally settled, either as a native, householder, journeyman, apprentice, or servant, for the space of forty days at the least." Various statutes have

rent to that amount, and residence for forty days in the parish where the tenement is. By actual occupation is meant that no part of the tenement must be underlet. 7. Settlement by estate is gained by the possession of any freehold, copyhold, or leasehold property, and residence for forty days in the parish where the estate lies. If the estate come to a party in any way except by purchase, the value of the estate is immaterial, but a purchased estate confers no settlement if the price given was under 30*l*. But a person residing on his estate, whatever may be its value, is by Magna Charta irremovable from it while so residing, although he may have gained no settlement in respect of it. 8. Settlement by office is gained by executing any public office in the parish, such as the office of constable, sexton, &c. for a year, and residing there forty days. The office need not be of a parochial nature, but it must be at least an annual office. 9. Settlement by payment of rates. In order to acquire this settlement a person must have been rated to and have paid the public taxes of a parish, in respect of a tenement hired at a rent of 10*l* a year, and have paid that amount of rent, and resided forty days in the parish of the tenement. This head of settlement therefore includes all the requisites of settlement by renting a tenement, except the requisite of actual occupation.

All persons whatsoever, whether natural born subjects of England and Wales, Scotchmen, Irishmen, or foreigners, may gain a settlement in this country. A chargeable pauper is to be removed to the place where he last acquired a settlement. It is often very difficult to find out the place of such last settlement: this is so more especially in cases of settlement by hiring and service and apprenticeship, where the residence, being unconnected with anything of a fixed nature, as a tenement or office, in any particular parish, may be continually shifting, the settlement consequently shifting with it, until the last day of the service or apprenticeship. Paupers who have a settlement must be maintained by the parish in which they happen to be, as casual poor, unless they

were born in Scotland or in the islands of Man, Jersey, &c. in which case they are to be a pass-warrant of two justices country. When a pauper chargeable, and it is sought him, he is taken before two justices, if satisfied, upon his examination and other evidence as may be laid, make an order for his removal. The parish to which he is removed dispute its liability by appeal at quarter-sessions, when the order will be quashed, unless it appears the pauper is settled in the appeal.

The Poor-Law Amendment Act, Wm. IV. c. 76, has made a change in the law respecting the rateable property or the mode of collection. The Act does not apply itself until collected, it then takes effect for the purpose of securing a contribution of it. To this end the power of removal to the poor of England and Wales is subject to the control of the three poor-law commissioners. In parishes or unions where guardians or a select vestry, or given solely by such guardians or by their order, unless in urgent distress. In these cases the guardian is bound to give temporary articles of absolute necessity, money, and, if he refuse, is required to do so by a magistrate, disobedience to which is a penalty of 5*l*. In parishes where guardians or select vestry, the management and relief of the poor is subject to the order of the commissioners. But, with the above stated, the task of the poor is wholly withdrawn from these officers, from political motives, having been generally competent to the discharge of a duty. They are still concerned with the making and collecting the poor-rate, which they are to do those who have the right. The general discretionary power of the magistrates formerly exercised in the relief is also withdrawn. A magistrate may still order

1801, and 1801, according to accuracy. The salary of the assistant-commissioners is paid a year with allowance for travelling expenses. Before the business of forming the unions was completed, the number of assistant-commissioners acting in England, was twenty-one, but the number is now restricted to nine under the act 7 & 8 Vict. c. 10. A chief commissioner is appointed for Ireland, who sits in Dublin, and there is a staff of assistant-commissioners for Ireland.

The average sum expended for the relief of the poor in the three years 1783-4 and 5, was £,112,241, and in the following years was as under—

		Proportion per head on total Population
1801	£4,017,871	24. 1d.
1811	6,056,105	13. 1
1821	6,952,249	10. 7
1831	6,798,888	9. 9
1841	4,750,929	6. 2

The sums expended for relief for a year or two before the passing of the Poor Law Amendment Act and in subsequent years are shown in the following table—

£	£
1832 7,530,968	1839 4,421,714
1833 6,780,799	1840 4,556,965
1834 7,211,254	1841 4,760,929
1835 5,520,118	1842 4,311,498
1836 4,717,630	1843 5,208,127
1837 4,044,741	1844 4,976,093
1838 4,123,604	

A great saving has also been effected in irregular and illegal expenses in consequence of the appointment of auditors for the different unions.

Number of in-door and out-door paupers relieved, including children during the following years ending Easter or Lady-day—

	Paupers	Proportion per cent. to Population
1807	1,040,716	12
1815	1,319,851	13
1823	1,439,356	9
1833	1,546,190	9.7
1844	1,477,561	9.3

Number of in-door paupers in 1841, 280,819, out-door 1,249,743. "Of the million and a half of persons thus relieved, a large proportion were permanent pan-

pers but the number of new cases which these quarters may be said to deal at half a million, so the number of persons relieved in England and Wales, in the course of the year 1844, may be taken at about half a million, or nearly one-eighth part actual population. In other words, one person in eight, through the population, received relief from the rate at some time during that Eleventh Report of the Poor Law commissioners. It should be remembered, however, that if a person comes to relief at 1 again applies for it he is counted twice over, but to what extent this cannot be ascertained from Poor Law Reports.

The expenditure of '85 Unions in England and Wales for 1843-4 was—
 Maintenance
 Charities
 Establishment charges and salaries
 Workhouse loans repaid
 Other charges connected with relief

Total

The number of paupers relieved in Unions in Ireland for the quarter 29th September, 1844, was 51,480, average number of days during which each pauper was relieved was 130. The total number of Unions in Ireland is 130.

POOR LAWS, SCOTLAND. The foundation of the Old Poor Law in Scotland, was the act of parliament 1745 which in so many respects resembled the celebrated English act of the fourteenth of Elizabeth. A few years earlier, as to have been considered a mere adaptation from the Scottish act, however, felt the English in the one important point of not providing for the care of the blind. By this old act, a pauper was acquired by birth, and established could not be changed by a seven years' industrial residence in another parish. By the act 1843 this period was shortened to three years. The method of administering relief, which arose partly out of the

view to the present session, he showed from his own experience that the utter inadequacy of the provision afforded to those who by inability to work or find means of subsistence in trade were reduced to want, was an extensive cause of disease, vice, and misery. The city corporation speedily answered to this appeal and arrangements were formed, and measures taken in various directions. It was shown that the amount expended on the relief of the poor in Scotland amounted to little more than a sixth part of the sum distributed throughout an equal population in England by the established poor law. In England the expense of supporting the poor amounted to a 1s. 4d. per head of the population, in Scotland, to 1s. 2d. In some of the Highland parishes, whence the most destitute of the country emigrated over the rent of the country, the allowances were insignificantly small and a Report made to the General Assembly of the Church of Scotland in 1839, enumerated instances where sums averaging from 2s. to 1s. yearly were solemnly awarded to destitute people as the provision which the poor law made for their wants. In the next year the discussion of these matters had a tendency probably to increase the amount of the provision for the poor. The progress of assessments made considerable progress, and a return to parliament in 1843 shows that between 1842 and 1841 the sums raised by assessment had increased from £20,141 to £25,288 while the sums raised by voluntary assessment had risen from £15,221 to £25,285. A commission was at last appointed to inquire into the whole state of the subject, and after hearing much evidence, they presented a Report, accompanied by a voluminous appendix in 1845. The amendments proposed in this Report were supposed to be of a somewhat narrow nature, the country expressed dissatisfaction with them, and in 1845 a measure was passed embodying alterations considerably more extensive.

By this act, 8 & 9 Vict. c. 83 a board of supervision is appointed, consisting of persons connected with the municipal bodies and the administration

of justice in Scotland, with one magistrate, who gives constant personal attendance. The office of the board is Edinburgh. This board is a central and simple means for administering, in parts of the country, the established poor, and the method in which a system of relief is administered. The board has, however, no direct or prohibitory control over the process of the local board. These boards, however, recognised by the act in the rural parishes where there is no assessment, the local board is to consist of one or more persons of the rank of gentlemen or of the rank of the annual value, the kirk minister, and one or more elected representatives of the ratepayers according to the number fixed by the board of supervision. In parishes the boards are each to consist of four persons named by the board of supervision, not exceeding four from each parish in the city, and one or more elected persons according to a number and qualification fixed by the board of supervision. In parishes where there is no assessment, the management of the poor is under the old system. There is thus in this act no machinery for enforcing a rule for the poor law in those parishes where the poor law is immediately concerned upon a local board. It is laid, however, that the facilities which the statute gives for the board of supervision for exacting from the respective parishes the relief to which they are entitled, will render it necessary to provide more extensive funds at the disposal of the distributors of relief and that this may only be accomplished through the exercise of assessment. When persons apply for relief, it is provided that if they have no settlement, if the board be just in the case of their having no settlement where it is made, and if it be determined what parish is liable. When relief is refused, the applicant may apply to the sheriff, who may grant him relief for temporary relief, and then hear parties, and decide whether the applicant is or is not entitled to relief. In this case, however, neither the sheriff nor any other judge can decide on the adequacy of relief. The initial step is very judicious.

miles is overstocked by as many individuals, in nations which have reached the highest degree of civilization hitherto known, the population is as great to one single square mile.

Under the diversity of circumstances in which the inhabitants of different parts of the world exist, their numbers are limited by the means of subsistence. If the population increases faster than the food for them, pest, poverty and misery ensue, and death thins their numbers, and brings them to a level with the means of subsistence. This effect may take place whether the population be one to a square mile, or several hundreds. Hence the proportion of births, marriages, and deaths to the population, is an important element in ascertaining the condition of the population of any country as the proportion of the numbers to each square mile.

The views which arise when the population increases more rapidly than the means of subsistence had not escaped the notice of two of the most eminent writers of antiquity, Plato and Aristotle (Plato, *Laws*, vii. and *Republic*, v.; Aristotle, *Politics*, vi. 10.). In later times this truth had been seen by Dr. Franklin, Sir James Stewart (*Treatise on Pol. Econ.*, book 1), Mr. Townsend (*Essay on the Poor Laws*), and other English and French economists. Their views attracted little attention at the time when they wrote. In England especially, during the eighteenth century, a false opinion prevailed, that the population was diminishing, and so recently the demand for men during the long war with France rendered the evils of a redundant population almost imaginary in general estimation. The great moral crises of the population during the present century, the transition from war to peace, and the commercial embarrassments and periods of public distress which have been experienced, have given us the means of forming a better judgment on such matters, and the writings of the late Mr. Malthus have powerfully acted in producing correct views upon the questions of population. His 'Essay on the Principle of Population' was first published anonymously in 1798. This work was suggested by a paper in Godwin's 'En-

quirer,' and the author's object was to apply the principle of population to the schemes of humanibility and other speculations on to which the French revolution had birth. Hume (*Populousness of Nations*), Wallace (*Dissertation Numbers of Mankind in Ant. Modern Times*), and Dr. Price's of more recent date, were the sources from which Mr. Malthus deduced his main principle of the Essay.

Soon after it appeared a second edition, to which Malthus affixed his name, and which might be considered almost a new work. The author had in the interval directed his attention to an historical examination of the effect of the principle of population on the past and present state of the world, and the subject was for the first time treated in a comprehensive and systematic manner. A third and fourth edition appeared a few years afterwards, the fifth edition, containing several new chapters, was published in 1836, and a present edition, which contains few alterations, was published in 1853. The title of the work as it at present stands is as follows:—'An Essay on the Principle of Population, or a View of its Past and Present Effects on Human Progress, with an Inquiry into our Resources respecting the Future Removal or Mitigation of the evils which it occasions.' The following is a brief summary of the leading principles. Mr. Malthus's positions are—that population, if unchecked, goes on doubling its numbers every twenty-five years, or increases in a geometrical ratio, while the means of subsistence, under the most favourable circumstances, could not be increased faster than in an arithmetical ratio. That is, the human species may be increased as the numbers 1, 2, 4, 8, 16, &c. while the increase of food would only be in the following ratio, 1, 2, 3, &c. Thus if the fertile land of a country is occupied, the yearly increase of produce must depend upon improved cultivation, and neither more capital applied to land could create a greater amount of produce than a certain limit. But the increase of population would ever go on with

and represented as the enemy of the poorer classes whereas no man was more benevolent in his views; and the earnestness with which he engaged in his work 'On Population' arose from his desire to diminish the evils of poverty. His mind was philosophic, practical, and sagacious, his habits, manners, and tastes, simple and unassuming, his whole character gentle and placid. The last edition of his 'Principles of Political Economy' contains an interesting account of his life and writings by Dr. Otter, late Bishop of Chichester, who had known him intimately for half a century. A list of Mr. Malthus's works and writings is given in page 42 of this 'Memoir.' It is a matter of regret that they have never been published in a collected form. Several of his most valuable productions appeared in the Edinburgh and Quarterly Reviews. Mr. Malthus was born at Albury near Guildford in 1766, became a fellow of Jesus College, Cambridge, and entered holy orders; he afterwards married. In 1804 he was appointed Professor of History and Political Economy at the East India College, Haileybury, the duties of which he fulfilled to the time of his death, in December, 1834. Mr. Malthus was a Fellow of the Royal Society and member of the National Institute of France. It is not creditable to those who had the distribution of ecclesiastical patronage that Mr. Malthus never held any preferment in the church. From this brief notice of the individual whose name is so intimately identified with the theory of population, to the elucidation of which the last part of his life was devoted, we return to the subject of the present article.

Although circumstances may sometimes occur in which the tendency of population to outstrip the means of subsistence may be counteracted, and food may for a time increase faster than population, yet this only gives an impulse to population, and the former proportion is quickly re-established, provided no improvement takes place either in the prudent habits of the people or in the elevation of their tastes and desires.

The poverty and misery which are observable among the lower classes of the

people in every country can in degree be accounted for by a reference to the principle of population. It is evident, for example, that the wages depends, for one of its elements, on the proportion between population and the means of employment. In other words capital and that population in either directly affects wages. If population has increased while the means for employing labour have remained stationary, the competition of labour will cause the rate of wages to decline. On the other hand, capital has increased faster than population, or capital has been concentrated at any given spot more than population, wages will rise. In the former case, and in the latter, the rate is higher than in other places where the same thing has not taken place. Occasionally in some parts of the States so many emigrants will flock to a single spot that the demand for labour is in immediate demand, and wages come very high compared with places that has not been so crowded. The tendency of population to increase is the same under all circumstances, but it is not the case with capital, which is not the case with capital, which multiplied the difficulty of obtaining employment of capital becomes greater, that is, the difficulty of obtaining employment of capital becomes greater. Under such circumstances wages would have a constant tendency to fall, if the checks to population did not interpose, but it depends upon the people themselves whether the law is maintained by vice and immorality, or by prudent restraint, which, if adopted, would certainly secure a fair proportion of the means of life.

The great problem of society is to obtain the most beneficial proportion between population and food — to attain grand democracy, a great accumulation and a state of society in which poverty and dependence are everywhere but unknown. Such as there is resulting from the increase of population may at first appear to be capable of being regulated, but the principle may even be regarded

the springs of human improvement are the power of invention and the law of exertion, which preserve us from this state of imbecility and decay which it would fall if not sustained by some extraordinary aid. It is the interest of all members of society, and is particularly incumbent on those who have the power, to use all exertions to elevate the habits and moral feelings of the people, by the means to render every individual improvement conducive to the happiness of society. If this be so, no such wretchedness as we see in the lower stages of society may be avoided with the highest efforts of art and science, and the greatest perfection in the arts and of industry. Even the power of vaccination or any similar art diminishing mortality is of no avail provided the number of sustenance the same without any realising increase of the resources of the soil, and the average mortality will be diminished, but disease will be under other forms. Every improvement which tends to increase the supply of human food, and every improvement which extends society by cheaper processes for obtaining the means of life, should be accompanied by corresponding advances in the moral and mental character of a nation, to secure all the advantages these improvements are calculated to procure.

Malthus's theory is now generally received as the true exposition of the law of population. Many of the objections that have been urged against it are hardly worthy of notice. Some have sought to prove the Scripture command to increase and multiply, forgetful of our obligations which are in opposition with it. Others have said that they have discovered a moral law of security which with the fluctuating circumstances of the world, Mr. Malthus, and Mr. Godwin, and Mr. Bentham entertained this notion. Mr. Malthus is not replying to their work are stated in the appendix to the sixth edition of the 'Essay on Population.' The fallacies of Mr.

Sadler's work are most ably exposed in the 'Edinburgh Review,' No. 102. Mr. Senior is the only economist of any distinction who has objected to the theory of Mr. Malthus. He contends, in his 'Two Lectures on Population,' for the doctrine that "the means of subsistence have a natural tendency to increase faster than population." The appendix to these 'Lectures' contains a correspondence between Mr. Malthus and Mr. Senior on their respective views. It exhibits the latest views of Mr. Malthus, though, after forty years anxious reflection on the subject, he had no change to make in his opinions.

The latest works on population are, 'The Principles of Population, and their Connection with Human Happiness by Archibald Alison, Esq. published in 1840, and 'Over Population and its Remedy, or an Inquiry into the Extent and Causes of the Distress prevailing among the Labouring Classes, and into the Means of Remedying it, by W. J. Thornton 1845.

The disputes about the principle of population like those which have arisen on many other questions of a like kind, are mainly owing to the ambiguity of language. In fact they are very little more than questions about the consistent use of words. If we analyse the proposition of Mr. Senior, it will appear that it is not easy to conceive with clearness the meaning of its terms. The words "means of subsistence" may signify the subsistence which is obtained from spontaneous products of the earth, and from the natural increase of animals. The products of the earth may be said to have a natural tendency to increase, or naturally to increase, or rather to be produced, and it may for argument's sake, be admitted, though it is not true, that animals have the same kind of natural tendency to increase, or are in like manner naturally increased, or rather are produced. There is no other natural tendency to increase, or natural increase or natural product, that we can conceive if the word "natural" is to have its ordinary acceptation. The increase of population, or the produce of new population, may be said to be natural, exactly in the same sense in which the

increase or produce of animals generally may be called natural. If then this should be the sense of the word "natural," the proposition means that vegetables and animals (not including man) have a natural tendency to increase faster than man, who is an animal—a proposition which is not worth the trouble of discussion.

But this is not the meaning of the writer who maintains this proposition. he is evidently speaking of human labour and its products when he is speaking of the "means of subsistence." The term "means of subsistence" therefore contains the notion of human labour; and "means of subsistence" are the products obtained by human industry applied to material objects. Everything "natural" therefore is by the very force of the term "means of subsistence" excluded from these words, for it is not of natural produce simply that the writer is speaking but of that which human labour produces in other words, though nature (to use the vulgar term) co-operates, the thing produced is not viewed as nature's product, but as the product of human labour. There is then nothing "natural" in "the means of subsistence," and therefore there is no natural tendency to increase in the means of subsistence and consequently the comparison contained in the proposition between things that have no natural tendency to increase, and things that, in a sense, have a natural tendency, is unmeaning. Whether then the assertion be that "there is a natural tendency in population to increase faster than capital" (Mill), or "that the means of subsistence have a natural tendency to increase faster than population" (Senior), in either case the use of the word "natural" is incorrect, and not only tends to cause, but does cause confusion. It should be observed that in enunciating this proposition, Mr. Senior sometimes omits the word "natural."

Again, the natural tendency of population to increase is simply the desire and the power to gratify the animal passion, the consequence of which is the physical union of the sexes and the production of their kind. But this tendency (to use again this very vague expression) is

positively checked by want of food and other things necessary for human sustentation and health. If food and such other things could be had to an indefinite amount without any labour, so far as food and such other things only are necessary to its increase, population would go on continually increasing. But the actual conditions of obtaining food and such other things are human labour; that is, the labour of those animals, who if supplied with all that they want without any labour, might go on increasing indefinitely. It appears then that this so-called natural tendency of population to increase has no effect, that is, it remains a tendency; that is, it is nothing at all in results, unless man labours, and the amount of his labour, in considering this question, is quite immaterial. It is unimportant whether it consists in making a plough and ploughing the earth, or plucking an apple from a tree and eating it. The whole proposition then may be developed thus—The means of subsistence are only produced or had by man's labour. these "means of subsistence" so produced have no natural tendency to increase, except so far as man has a natural tendency to increase. Now, man has in a sense a natural tendency to increase, that is, he has a desire and a capacity to increase, and he can increase if he has the means of subsistence. But he must have the means of subsistence first; and if the actual means of subsistence are only sufficient for the actual population, there can be no increase of the population till the means of subsistence are increased. The "means of subsistence," at any given time, and in any given nation, signify those things which the individuals of that nation require according to their several stations and the habits of society; they may be the bare means of sustaining life; or they may be those things also which Mr. Senior has well defined under the heads of "decencies" and "luxuries." If while the means of subsistence remain the same, the population lower their scale of living it may increase further for the relative means of subsistence are by the supposition increased. It is true that this lowering

of living is an evil, inasmuch as to make society more so is to diminish there is demand for the extent to which the scale of living is lowered. The individual can then on which the pressure of social needs is now taken for living we want out the existence of an of subsistence, and such is the effect of labour only.

can never on temperate human in its origin. We must content in to progress and development which only how much *humanity* can and gain the measure of subsistence towards the solution of any that concerns his condition so that and no more at any time and in any given state of there is a certain population which is a certain scale by which the measure of subsistence which it is not there means are partly direct and are indirect, of the population and partly the measure of their progress. If the of an state, then individual population, are sufficient and so are sufficient any to mean of the we must be provided by increased or by labour restricted more pro-

We cannot suppose the popula- increase first and then the ad- means of subsistence in be- ed, but by the sup, when the population has any sufficient, and high to increase must be that in either case, and by the sup, to be in either state.

to say that a holder may be in a- often been, says the number of- the ' increase of the whole- but then, moreover, the power- they when the nations they have- of the then existing cause of- and therefore they are in- of population, or they do- progress of the present, never- it exists, no more subsistence, it can it must be admitted that- the then and was out in to- the whole measure of subsistence- not, as we see that the over- in the present measure which- can get is less than it was before.

The fact is, that a state contains the means of subsistence not less a sufficient for the existence of the actual popula- tion, or others may not be the fairly sufficient. In the former case there can be no real increased population in the state in which there has been an ex- pansion, and there has first been an un- real increase in the means of subsistence; in the latter case there may be a measure of the population before there is an in- crease of the means of subsistence, and thus a decrease of population may go on without any increase in the means of sub- sistence, until for people have reached the lowest limit of subsistence or con- sequence of each other share of the product revenue being diminished.

It is clear then that the measure of sub- sistence as above explained must be first, and measure of population can then follow and generally decrease to the full measure of the increased means of subsistence, and further population may and will increase as long as the measure of subsistence remains, but it is then of necessity checked by actual suffering to the whole or part of the society. And this we observe is the meaning of Mr. Malthus's proposition.

There is no contradiction at all, either, however expressed in our writers) to the whole of society, e.g. the case of in- crease of the two things, "means of sub- sistence" and "population." There can be no real comparison of the two in- creases between these two things except that a given population may reach its measure, which is proportional to the number of means and means of subsistence, in a less time than these increased means of subsistence were produced, or a may take a longer time. There is no con- tradiction about a country to increase change in the case the of the state, the present is what we intend to prove, which is only into place, not to con- tradict any of the.

The position is repeated and is true and not contradicted either by the fact that a measure of the whole measure of subsistence and not of the popula- tion may be and possibly may, up on at the same time and it seems to have been supposed that this increase of

population, during a given time, is owing to the *then* increasing means of subsistence. But this cannot be true if it shall be admitted that a given amount of population cannot be increased, unless the actual amount of the means of subsistence of that population is first increased, or, which is the same thing, the rate of living is reduced. If some writers on this subject have not meant what is here imputed to them, they have certainly not sufficiently guarded themselves against the imputation.

There is still another consideration which perplexes the question. For very short periods it is certainly conceivable, and it is very probably the case, that sometimes population is increasing (in a certain sense at a faster rate than the means of subsistence, that is, taking short intervals, it will or may be found that the population, during such intervals, has outstripped the means of subsistence existing at the end of such intervals, and a part of it must therefore die. These deaths consequently take place either in the whole population, or among those whose means of subsistence are reduced, for some parts of the community may and do enjoy, under such circumstances, as much as they did before, while others do not. In practice, a deficient allowance is not distributed among all, but some suffer and others do not. But on the other hand it is conceivable, and it may be true, that for short intervals the means of subsistence may sometimes be increasing more rapidly than the contemporaneous increase of population, that is, the actual population may possess and be producing and accumulating the means of subsistence more than sufficient for the sustentation of themselves and of the addition to the population made during the time of such production and accumulation. Now this is certainly the fact in many societies, as to part of the society, one part is producing and accumulating more than is necessary for the increase of the population which it is producing: this is the case with many of the middle classes in all industrious communities. At the same time another class is increasing its population at a greater rate

than the means of subsistence applicable to such increase. the check to such an increase is obvious. There is no reason why this may not be true of a whole population, as it is of a part.

On the whole, the experience of mankind proves that the sexual passion will, if unrestrained, always, or except under very peculiar circumstances, nearly always increase the population by new births up to the level of the means of subsistence at each moment existing; during short intervals the propagation of the species may also have been so active as to have outstripped the means of subsistence existing at the end of such intervals. But though the population during short intervals may so increase its increase at the end of a series of such consecutive intervals can only be the effect of a previous increase in the means of subsistence; always supposing the condition of the people not to be growing worse, for there may be, as already observed, an increase of population up to the limit of a bare subsistence, without any actual increase in the whole means of subsistence. Therefore the increase of the means of subsistence, that is, the products of human labour, are the antecedent conditions of any actual increase, and the increase of population may be to the amount of such increase, but cannot surpass it. If for short periods the increase of population does surpass the increase on which by the supposition it depends, the increase is checked, and on taking the account at longer intervals there is, or may be, no actual increase of the population. If for short periods the increase of the means of subsistence surpasses the increase of population, this is made up in the next periods by an increase in the population. There is then, or may be, a constant fluctuation for short periods, the population and the means of subsistence alternately increasing with greater rapidity. But any increase of population, even for a short period, supposes a previous increase of the means of subsistence ever that which the actual population found to be merely sufficient before the commencement of such short period, whatever may be the comparative rates of increase.

two living such short periods, then that in the same period population may actually be at the end of any interval somewhat smaller of which the population is reckoned, than the one existing at the commencement of such interval and which must for the then population have more added to the increase than passed during such interval, is sufficient to support the existing at the end of such interval the same way in which the population at the commencement of such interval was living, and the fact, the means of subsisting at the end of such interval, is more than sufficient to support the population existing at the end of such interval in the same way of the end of any long interval, as the increase of population, as with the commencement of such interval, there has been during such interval a balance in the means of subsistence, provided living has not been such a loss as there must have been, if the means of living passed, that is the means of subsistence, of such interval, and those produced during it, sufficient to produce and maintain at the end of such interval, a balance, that is at the commencement.

It is evident on the whole of the evidence of distributed wealth every moment of the interval would have at the end of interval a surplus of subsistence, and a surplus of an interval, the following interval. It may be that, in some intervals, less passed is little beyond provided at the beginning of such interval, the number is a diminution in its way in the next interval, and an increase of death. In this position it is always evident that are to be considered, but the means and large periods, is nothing for a tendency, that is a capacity for or for

a given end, means nothing in such speculation as these, unless it becomes an effect.

The principle of population is stated by Mr. Malthus with more precision than by some writers who have adopted his opinions, and though it seems to us that his language is not always quite free from objection his real meaning is perfectly so. His correspondence with Mr. Senior shows this. The importance of right notions on this subject must be our apology for this further attempt at explaining it.

POSITIVE LAW. [Municipal Corporation.]

POSITIVE LAW. [Law p. 331.]

POSSE COMITATUS. Literally, the power of a county comprises a judicial power within the county between the ages of 15 and 20 years. All such persons, without any exception, are bound to aid the sheriff in all matters that relate to his office, and he is liable if he neglect to avail himself of their aid. In case of any treason, rebellion, riot, &c., or breach of the peace within the county, all such persons, on notice of law or otherwise, must, are bound to attend him on being charged by him to do so, and to assist in opposing and suppressing them. They may come armed, and are justifiable in killing a person in case of resistance. The power of the county may also be raised when necessary for the purpose of apprehending traitors, &c., and that even within particular franchises. It is lawful for any peace officer, and perhaps even for a private person, to raise a competent number of people for the purpose of opposing and suppressing riotous, rebellious, &c., within the county. But all such persons are justifiable if they use unnecessary violence or create false alarms. It is also the duty of the sheriff or any magistrate of the county who has the execution of the king's writs, to process even in a civil matter, who comes with actual resistance in his attempt to execute them, to raise a power sufficient to quell the resistance. 2 Inst. 152, 153, 154, 155, 156, 157, 158, 159, 160.

POSSESSION. In endeavouring to explain the meaning of this word, we

shall use the following extracts from Savigny's work on the Law of Possession (*Das Recht des Besitzes*, Gießen, 1827).

"All the definitions of possession are founded on one common notion. By the notion of possession of a thing we understand that condition by virtue of which not only are we ourselves physically capable of operating upon it, but every other person is incapable. This condition, which is called Detention, and which lies at the foundation of every notion of possession, is no juristical notion, but it has an immediate relation to a juristical notion, by virtue of which it becomes a subject of legislation. As ownership is the legal capacity to operate on a thing at our pleasure, and to exclude all other persons from using it: so is detention the exercise of ownership, and it is the natural state which corresponds to ownership as a legal state. If this juristical relation of possession were the only one, everything concerning it that could juristically be determined, would be comprehended in the following positions:—the owner has the right to possess; the same right belongs to him to whom the owner gives the possession; no other person has this right.

"But the Roman law, in the case of possession, as well as of property, determines the mode in which it is acquired and lost, consequently it treats possession not only as a consequence of a right, but as a condition of rights. Accordingly, in a juristical theory of possession, it is only the right of possession *jus possessionis* that we have to consider, and not the right to possess called by modern jurists, *jus possidendi*, which belongs to the theory of property.

"We now pass from the notion of mere detention to that of juristical possession, which is the subject of this treatise. The object of the first part, which is the foundation of the whole investigation, is to determine this notion formally and materially. Formally, by explaining those rights which presuppose possession as a condition, and consequently determining the signification which the non-juristical notion of detention obtains in jurisprudence, in order to

its being considered as something legal, that is Possession in enumerating the conditions. Roman law requires for the possession, and consequently the modifications under which it can be viewed as possession.

"The formal determination of the notion by force of which a thing can become a subject of law, is divided into three parts:—we must determine the place of possession, as a legal relation, in the system of Roman law; then enumerate the rights which Roman law recognises as a consequence of possession, and we must determine the rights which are improperly called rights of possession. It is not easy to answer the question whether possession is to be considered as a *jus in re*. The simplest mode in which possession appears in a system of jurisprudence, is in the owner having the right to possess; but we are here to consider possession independent of ownership as the source of peculiar rights. The former of these two questions may be expressed thus:—in what cases has possession been distinguished from ownership? a mode of expression which has been used by many jurists.

"In the second place we must determine how the different senses of possession occur in the Roman law, distinguished from one another by mode of expression, and what were the significations of *possessio* generally, and *Possessio civilis*, among the jurists.

"In the whole system of Roman law there are only two modes of acquisition which can be ascribed to possession itself, as distinct from all other rights:—these are Usucapion and Longi Possessio.

"The foundation of a new rule of the Twelve Tables, that one who possesses a thing one or two years becomes the owner. In this case possession, independent of all other rights, is the foundation of property, which must indeed have been admitted in the civil law, in order to have been

pendent of all ownership. The owner of a thing may not have the possession, but he has a right to the possession, which he must prosecute by legal means. The possessor of a thing, simply as such, has rights which are the consequences of his possession—that is, he is legally entitled to be protected against forcible ejection or fraudulent deprivation; his title to a continuance of his possession is good against all persons who cannot establish their right to the thing, and this continued possession may, according to the rules of positive law in each country, become the foundation of ownership. It may be that the acquisition of possession may also be the acquisition of ownership, or that the acquisition of possession may be essential to the acquisition of ownership. Thus, in the case of occupation, the taking possession of that which has no owner, or the acquisition of the possession, is the acquisition of the ownership. Also, when a thing is delivered by the owner to another, to have as his own, the acquisition of the possession is the acquisition of the ownership. In these examples, ownership and possession are acquired at the same time, and there is no right that belongs to the possessor as possessor, his rights are those of owner. But the form and mode of the acquisition of the possession, viewed by itself as distinct from the acquisition of the ownership, will also be applicable to the cases of possession when possession only is acquired. For possession of itself is a bare fact, though it has legal consequences; and being a bare fact, its existence is independent of all rules of the civil law or of the *jus gentium*, as to the acquisition and loss of rights (Savigny, p. 25.)

Having shown that in the Roman law all juristical possession has reference to usucapion and interdicts, and that the foundation of both is a common notion of juristical possession, Savigny proceeds to determine the material conditions of this notion.

In order to lay the foundation of possession as such, there must be detention, and there must also be the intention to possess, or the "*animus possidendi*." Consequently the "*animus possidendi*"

consists in the intention of ownership. But this owner either be a person's own own that of another: if the latter, such "*animus possidendi*" as intention amount to possession. In the former case a man is a possessor he treats the thing as his own: necessary that he should believe his own.

Whether then we are considering possession as such, or that possession is concurrently acquired with ownership, or which completes the acquisition of the exercise of, ownership, the facts of possession are the same. If ownership is transferred from one to another, every system of law requires some evidence of it. But the fact of the transfer of ownership is entirely independent of the evidence of possession; and evidence of the acquisition of possession may be inseparable from that of the acquisition of ownership. There is generally be some act which is evidence of the acquisition of possession, as such, without ownership, or possession accompanied by ownership, or possession necessary to the complete acquisition of ownership, or possession as an exercise of ownership.

It is remarked by Savigny (*De des Besitzes*, p. 185), "that in the theory of possession nothing so difficult to determine than the character of the corporeal apprehension which is necessary to the acquisition of possession. In fact all writers have understood it as immediate touching of the corporeal object, and have accordingly assumed that there are only two modes of apprehension: laying hold of a moveable with the hand, and entering with it a piece of land. But as this does not occur in the Roman law in which possession is acquired by a corporeal contact without such immediate contact, they have been viewed as symbols, which, through the medium of fiction, become the substitute for apprehension." After showing that this is not the way in which the notion of possession is understood in

1. The first step is to identify the problem. This involves understanding the situation and the goals that need to be achieved.

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1. The first step is to identify the main topic of the document. This is often found in the title or the first few paragraphs.

2. Next, we need to understand the purpose of the document. Is it to inform, persuade, or entertain? This will help us determine the tone and style.

3. We should also look for key points or arguments. These are usually highlighted by bold text, bullet points, or numbered lists.

4. Finally, we need to check for any references or sources. These are often found at the end of the document or in a separate section.

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that the one hundred Post
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the Post Office.

This office was to have
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or to, any city, town, or place in the United Kingdom other than London or Dublin, without any reference to the distance to which the letters were conveyed. The London Twopenny Post extended to all letters transmitted by the said post in the limits of a circle of three miles' radius, the centre being the General Post-office in St. Martin's le Grand, which limits the Postmaster general had authority to alter. The London Threepenny Post extended to all letters transmitted by the said post beyond the circle of three miles' radius, and within the limits of a circle of twelve miles' radius, the centre being the General Post-office.

The Select Committee of the House of Commons in 1838 and 1839, which investigated Mr. Rowland Hill's plan, reported the following to be the average rates of postage.

Average rates, Multiple Letters being included and counted as Single.

	d.
Packet and ship letters	nearly 23½
— and inland general-post letters	nearly 9½
Ditto, ditto, and London 2d. and 3d. post letters	nearly 8½
Ditto, ditto, ditto, and country 1d. post letters	little more than 7½
Inland general post letters only	nearly 8½
Ditto and London 2d. and 3d. post letters	nearly 7½
Ditto, ditto, and country 1d. post letters	nearly 6½
<i>Average rates, Multiple Letters being excluded.</i>	
Single inland general post letters	nearly 7½
Ditto and London 2d. and 3d. post letters	little more than 6½
Ditto, ditto, and country 1d. post letters	nearly 6½

Privilege. As early as a post-office was established, certain exemptions from the rates of postage were made. Parliamentary franking existed in 1562. In the paper act which granted the post-office revenue to Charles II. a clause provided that all the members of the House of Commons should have their letters

free, which clause was left to lords, because no similar privilege was made for the passing of their letters. A compromise was made on that their letters should pass free.

In 1745 the House of Commons executed some investigations into the post, which appear on the Journals. In 1764 '4 Geo. III. a committee was appointed "to inquire into the abuses in relation to the receiving of letters and paying the duty of postage." Resolutions were passed, and regulating the post was passed. From time to time the privilege was extended, until it was abolished, with very few exceptions, 10th of January, 1843.

Seven millions of francs, or three millions of general postage including francs, were estimated to pass through the Post-office.

The privileged letters, reckoned at the standard of single letters, were above 30 per cent. of the whole letters transmitted by the general post.

The average weight of a payable letter was about 3-10ths of an ounce, the average weight of a frank about 4-10ths of an ounce, of an official frank 1-9376 of two ounces, and that of a civil letter 3-1121 oz. Had the postage been liable to the then existing rates, it would have contributed 1,000,000 to the revenue.

Newspapers with a few others were free of postage. Newspapers from foreign countries are charged with a rate of postage, which depends on the granting of equivalent terms to the newspapers sent by post to the countries. All franking is now abolished.

Revenue.—The statistics of the office revenue are far from complete for the early period of the Post-office, and before 1716 scattered accounts can be obtained. In 1753 the annual revenue was 10,000 £ and in 1759 for 10,000 £ (see the Commons). In 1760 it was 21,500 £ and in 1764 the farming of the revenue was 21,500 £.

re-modelled by the Duke of Richmond, then postmaster-general. The separate office of postmaster-general for Ireland was abolished, and a secretary at Dublin and at Edinburgh is chief executive officer for the respective countries.

Constant additions are being made to the number of post-offices throughout the kingdom. In 1841, considering posts formerly called penny-posts, 'fifth class posts,' and sub-offices as post-offices, the following may be taken to be about the numbers:—

	Post-Offices	Sub-Offices	Penny-posts	Total
England	650	180	1090	1920
Scotland	220	105	280	605
Ireland	330	105	200	635

Every post-office in the United Kingdom has direct communication respectively with the chief offices in London, Dublin, and Edinburgh.

The Commons' Committee, in 1838, prepared an analysis of the cost of management of the Post-office for the United Kingdom. These accounts show that about four-fifths of the charges consisted of the cost of distributing letters in the United Kingdom. Transit cost two-fifths (287,406*l.*), and the establishment two-fifths (284,078*l.*). The maintenance of the post between this country and the colonies and foreign countries, the inland post in certain colonies, and other charges, make up the remaining fifth. But these accounts were not altogether complete, because the expense of those packets controlled by the Admiralty was included in the Navy Estimates, and could not be separated. And as the penny stamp on newspapers was retained as a postage, about 145,000*l.* should be carried to the account of the Post-office receipts. These accounts are, of course, subject to change yearly. The transmission of the mails by railroads has added much, since the above analysis was made, to the mileage charges.

No accounts of the number of documents passing through the Post-office were kept until very lately. Founded upon a very careful examination of the best data, the numbers were estimated in 1838 to be as follows:—

Description of Letters.	Yearly Number of Letters.	Average Rate per Letter.
Packet and ship letters	3,522,572	22 <i>½</i> <i>d.</i>
General post in and letters above 4 <i>d.</i>	62,378,400	9 <i>½</i> <i>d.</i>
Ditto, not exceeding 4 <i>d.</i>	3,163,800	3 <i>½</i> <i>d.</i>
London local-post letters	11,317,352	2 <i>½</i> <i>d.</i>
Country penny post letters	9,030,412	1 <i>d.</i>
Total	74,923,426	7 <i>½</i> <i>d.</i>
Parliamentary franks	4,813,448	—
Official franks for public purposes	2,100,810	—
Public statutes	77,548	—
Newspapers	44,550,000	—
Total of documents transmitted by post	126,423,536	—
Unappropriated	—	—

Total revenue from letters 1837.
(See Notes to 'Postage Report,' page 6.)

The chargeable letters in the thirty-two mails leaving London were found to be only 7 per cent of the whole weight of those mails. The total weight of chargeable letters and franks on the thirty-two mails leaving London was only 2012 lbs. Deducting one-half the weight of the franks and franked documents, the weight of all the chargeable letters was only 1456 lbs., being less than the weight which a single mail is able to carry. The average weight of the thirty-two mails was found to be as follows:—

Average of 32 Mails.	Pounds weight.
Bags weighed	68
Letters, including franked letters and documents	91
Newspapers	304
	463

The management of the conveyance of the mails by sea and land is, of course, subject to those constant changes which arise out of the improvements taking place in the various means of transit. Certain packets are controlled by the Admiralty, and in charge they were removed to others still remain with the Post-office. Contracts for the conveyance of

to the Government are made between Post office and the proprietors of our steam vessels. The Post office, moreover, has the power of sending a bag of letters in any private ship.

The estimated expenditure is carried on partly by four horse and two horse coaches, by carts in Ireland, by single horse cabs, on horseback, and foot.

The number of letters transmitted over England and Scotland by the mail since 1844 was 2,111,000, and in 1845, 2,200,000. The average speed in England was 47 miles per hour, gradual and regular, about 1 letter.

The average mileage for four horse mails in England was 47, and in Ireland 27 1/2 English miles. The system of mail delivery owed its origin to Mr. Palmer.

Mr. Palmer, in 1834, laid a plan before Mr. Peel, which was adopted by the Government, after much opposition from the authorities of the Post office.

Mr. Palmer found the post, instead of being a quiet, steady, nearly the power to convey in the country, very considerably more than the common stage-coaches.

Mr. Palmer's rate of speed was 47 miles per hour, and a half per hour. When the first London mail arrived in the afternoon and the second mail in the following morning.

The first mail did not arrive till the second morning. Mr. Palmer was the only one, it was also irregular, and very slow. The delivery of the mail was very slow.

Mr. Palmer intended to perfect the delivery system, and to give it more of the punctuality, regularity, and speed of the post and the delivery of the post office.

Mr. Howard Hall's Plan. In 1846, Mr. Howard Hall presented to the Government a plan for the improvement of the post office, and for the delivery of the mail in the country.

Mr. Hall's plan was to improve the delivery of the mail in the country, and to give it more of the punctuality, regularity, and speed of the post and the delivery of the post office.

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be made in advance. The means of doing so by stamps was not suggested in the first edition of the pamphlet, and Mr. Hall states that this idea did not originate with him.

It originated, as stated by Mr. Hall, in a suggestion of Mr. Charles Knight to the Chancellor of the Exchequer to have a stamped penny cover for the postage of newspapers, when it was contemplated to add to the newspaper stamps.

A uniform rate of a penny was suggested for every letter not exceeding half an ounce in weight with an additional penny for every additional ounce.

Mr. Hall discovered the justice and propriety of a uniform rate in the fact that the cost attendant on the transmission of letters was not measured by the distance they were carried.

He showed in his pamphlet data that the cost of conveying letters from London to Edinburgh was divided among the letters actually carried, did not exceed one penny for thirty-six letters.

The publication of this plan immediately excited a stamp paper sympathy in its favour, especially with the commercial classes of the City of London. Mr. Wallis moved for a select committee to inquire into its merits in the 10th May 1847.

But the motion fell to the ground. In December, 1847, the Government assented to the appointment of a select committee to inquire into and report upon the plan.

After sitting upwards of sixty-three days, and examining Mr. Howard Hall and thirty-five witnesses, besides the officers of the department of the Post office and the various witnesses, the committee presented a most elaborate report in favour of the whole plan, recommending by authority and official data the execution of which Mr. Hall had learned from very nearly and imperfect information.

In the summer of 1848 the committee of the Exchequer brought forward a bill to enable the Treasury to carry the plan into effect, which was carried by a majority of 100 in the House of Commons.

and passed into law on the 11th of August 1848. In the following month an act was made which was called the Howard Hall's Stamp Act.

Mr. Howard Hall's stamp act was the work of the Treasury, and his own measure. But he was superseded by the administration.

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which came into office in September, 1841. On the 5th December, 1839, as a preparatory measure, to accustom the department to the mode of charging by weight, the inland rates were reduced to a uniform charge of 4d. per half-ounce. The scale of weight for letters advanced at a single rate for each half-ounce up to sixteen ounces. Other reductions were made in packet rates; and the London district post was reduced from 2d. and 3d. to 1d. This measure continued in force until the 10th January, 1840, when a uniform inland rate of postage of 1d. per half-ounce, payable in advance, or 2d. payable on delivery, came into operation. On this day parliamentary franking entirely ceased. On the 5th May stamps were introduced. The warrants of the Lords of the Treasury which authorised these changes were published in the London Gazette of the 22nd November, 28th December, 1839; 25th April, 1840. Returns have been made which show the increase of letters under the uniform-postage system. The number of letters which were actually counted for the week ending 24th November, 1839, before any changes took place, was 1,585,973 letters, including franks; for the week ending 22nd December, 1839, during the fourpenny rate, it was 2,004,687; and for the week ending 23rd February, 1840, 3,199,637. Thus the number of chargeable letters of all kinds increased 29 per cent. under the 4d. rate, and 121 per cent. (or, deducting the government letters, 117 per cent.) under the 1d. rate. The number of chargeable letters dispatched by the General Post increased 40 per cent. under the 4d. rate, and 169 per cent. (or, deducting the government letters, 165 per cent.) under the penny rate.

The gross receipts of the Post-office for the United Kingdom in the year preceding the adoption of the uniform rates of postage, and in subsequent years, are shown in the following table:—

1838	£2,346,278	1842	£1,578,146
1839	2,390,763	1843	1,535,215
1840	1,942,604	1844	1,705,067
1841	1,493,540		

The net receipts for each of the fol-

lowing years ending 10th October each were as under:

	£.		£.
1838	1,536,000	1842	591,000
1839	1,533,000	1843	590,000
1840	694,000	1844	672,000
1841	426,000	1845	688,000

The cost of management for the year ending 5th Jan., 1839, was £86,760, and for the year ending 5th Jan., 1840, £85,314/. Day-mails have been established to every town of importance, in some cases the communication by post between one town and another takes place several times a day. The mileage paid to railway companies is greatly increased, but the object which the post-office is established to attain has been more completely attained. Correspondence has increased with the rapidity and frequency of conveyance.

In 1839 the gross receipts of the London district post were 137,041l., and in 1844 225,621l.; but the rates of postage (2d. and 3d.) in 1839 were uniform as it respects weight, and were low for letters of a certain weight compared under the existing system of charging in proportion to the weight.

The number of letters delivered in the United Kingdom for one week, 1839, before the establishment of uniform rates of postage, and one week in the corresponding week of the year 1841, was as follows:—

	Week ending 24 Nov. 1839.	Week ending 31 Nov. 1841.
Country offices	764,938	2,029,000
London, inland, & foreign, & ship.	229,292	564,000
London District	258,747	433,000
Total England and Wales	1,252,977	3,026,000
Ireland	179,931	405,000
Scotland	153,065	413,000
Total United Kingdom	1,585,973	3,844,000

The total number of letters delivered in the United Kingdom in the week ending Nov. 20th in each of the following years was as under:—

In 1841	3,844,128
In 1842	4,202,346
In 1843	4,349,218

The principle of charging postage

right. This claim is called prescription, because the plaintiff or defendant who makes it "prescribeth that," &c., stating, after the word "prescribeth," the nature of his claim.

The following is an example of a prescription. Co. Litt., 114. a:—"I. S., seised of the manor of D. in fee, prescribeth thus: that I. S., his ancestors, and all whose estate he hath in the said manor, had and used to have common of pasture time out of mind in such a place, &c., being the land of some other, &c., as pertaining to the same manor." The claim of a copyholder of a manor for common of pasture in the manor, alleges a custom time out of mind within the same manor, by which all the copyholders of the manor have had and used common of pasture in it. The claim of prescription then is properly a claim of a determinate person: the claim by custom, as opposed to prescription, is local, and appertains to a certain place, and to many persons, and perhaps, it may be added, to an indeterminate number, as the inhabitants of a parish. The following definition of prescription appears to be both sufficiently comprehensive and exact:—"Prescription is when a man claimeth anything for that he his ancestors or predecessors or they whose estate he hath, have had or used any thing at the time whereof no memory is to the contrary." *Tide & Ley*. From this definition it follows that prescription may be a claim of a person as the heir of his ancestors, or by a corporation as representing their predecessors, or by a person who holds an office or place in which there is perpetual succession, or by a man in right of an estate which he holds. It is said that certain persons, officers for instance, may prescribe that they and all successors of the same sort have certain privileges, it seems indifferent whether this is called prescription or custom, but it is more consistent with the fact defendant to call it prescription, since it is not a local usage, and it is by or on behalf of a determinate number of persons, that is, the officers of a particular court. It is also said that parishes may prescribe a right of common, as a way to a

church-yard but not for a poor land: such a prescription, however, contained within the statute de donis and is in all respects more peculiar.

It is essential to prescription, to the limitations hereinafter set out, that the usage of the thing should have been time out of mind, and peaceable. "Time out of mind" means, that there must be evidence of non-usage or of non-inconsistent with the claim and subsequent to the first year of I., which is the time of the commencement of legal memory. If it is shown, either by evidence of living, by record, or writing, or other admissible evidence, that alleged usage began since the reign of Richard I., the prescription is unavailing. Repeated usage may be proved in order to support prescription, but an uninterrupted use for twenty years has been deemed sufficient proof, where the evidence is short the prescription is unavailing. Private rights, various rules as to prescription may be prescribed for, in what claim must be made, and how a title may be lost or destroyed, is treated on law. It is said that prescription is founded on the acquiescence of original grant which is now lost.

Recent laws have made various laws as to prescription, and limited time within which actions brought or suits instituted for real property. The 3 & 4 Wm. IV., chapter 2, every thing of a nature which is land in the which land is interpreted in the law only applies to those kinds of property of an incorporeal nature are also within the statute, and the 3 & 4 Wm. IV. - 10, applies to cases of modern and ancient tithes. The 3 & 4 Wm. IV. - 8, entitled "An Act for Shortening Time of Prescription in certain cases," § 1, "whereas the lawfully and the ancient custom, prescription, or grant of a right of common or other profit

in a matter of easement, as a way to a

shall have had notice thereof, and of the person making or authorising the same." In those cases, if there has been seisin or possession of the ancestor or predecessor within sixty years, the statute of Henry VIII will still apply, and evidence of the commencement of enjoyment within legal memory may still be given.

The Acts here enumerated do not apply to a claim "of a manor, a court-leet, a liberty, seigniorie jurisdiction, tithes, tress, wreck, waifs and other forfeitures, fair, market, fishery, toll, park, forest, chase, or any privilege legally known as a franchise, as well as anything pertaining to those rights which come under the description of dignities or offices." (Mr. Hawlett's Reply, &c., to certain Evidence before the Select Committee of the House of Commons on Records, February, 1836.)

The term prescription is derived from the Roman law, but the meaning of the term in the Roman law is different. Blackstone says (ii c. 17, note P.), "This title of prescription was well known in the Roman law by the name of *usucapio* (*Dig.* 41, tit. 1, s. 1), so called because a man that gains a title by prescription may be said *usu rem capere*." This remark is not correct. *Usucapio* in the Roman law was founded solely on possession as such. Possession, and it applied only to "corporeal things." "by the laws of the Twelve Tables *usucapio* of moveable things was complete in one year and of land and houses in two years." (Gaius, ii. 42.) "To *usucapio* was afterwards added, as a supplement, the longi temporis prescriptio, that is, an *exceptio* (plea) against the "rei vindicatio," the conditions of which were nearly the same as in the case of *usucapio*." (Bavigny, *Das Recht des Besitzes*, p. 41.) The term prescription was properly applied to that which a plaintiff (actor) produced (prescripsit) to the formula by which he made his demand against a defendant, for the purpose of proving or qualifying his demand. It seems afterwards to have been used as equivalent to *exceptio* or plea.

(Comyns, *Prescription*; Viner's *Abridgment*, Blackie, *Law of Evidence*, Blackstone, ii c. 17.)

PRESCRIPTION has, by the law of

Scotland, a much wider operation than either by the civil law or the law of England, supplying the place of the Statute of Limitations in the latter system. It not only protects individuals from adverse proceedings which other parties might have conducted if the lapse of time had not taken place, but in some instances creates a positive title to property. The prescription by which a right of property can be established is that of forty years—a period probably borrowed from the *Prescriptio quadraginta annorum* of the Romans. Whatever adverse right is not cut off by the other special prescriptions of shorter periods, is destroyed by the long prescription. It may be said generally to preclude the right of exacting performance of any claim, as to which no judicial attempt has been made to exact performance for forty years from the time when it was exigible. To create a title to real property, the long prescription must be both positive and negative. The party holding the property must, by himself or those through whom he holds, have been forty years in such prolonged possession of the property on a title externally valid—this is called positive prescription; and the claimant and those whom he represents must have been forty years without an ostensible title, and must, by not judicially attacking it, have tacitly acquiesced in the prescriber's title—this is called negative prescription. An action raised in a competent court interrupts the long prescription. It is usually stated in the Scotch law-books that it is interrupted by the minority of any person who could acknowledge the opposing right—but it would be more correct to apply in this case the phraseology of the French lawyers, who say it suspends prescription, as the years of minority are merely not counted in making up the period of forty years whole, when there has been judicial interruption a new period of forty years commences to run. When the prescription applies to a pecuniary obligation, payment of interest or an acknowledgment of the obligation will interrupt it. It may be observed that, by a sort of analogy from the system of prescription, when the

and any judicial inquiry as to the validity of a custom, it is usual in the course of the inquiry to forty years, in order to establish its having been in use time immemorial. It has been the practice in the neighbouring kingdoms for the proprietors of private books with the contents of which some of the system factors became conversant to the neglect of these proprietors produced by their having continued the same for forty years, and although it may that time increased from an ordinary to the individuals more concerned with the practice, to a public nuisance these proprietors, so far as the dispute has gone, been able to defend themselves on the ground of prescription, and to shew prescriptions of similar descriptions of claims or of supporting them. By the of or twenty years' prescription, the writings not attested with the seal of a Notarial writer, come to be a judgment. A stipulation of twenty or thirty years, is limited to the right of exchange and prescription, come to have force after six years, the debts they represent, if they are not debts, may be proved by the The prescriptional prescription of all right of action, after the five years, or longer, provable. It also protects agricultural claims a hundred years after they are five years removed from the date the demand applies. The of these years' prescription, is a right. It cuts off claims on the goods or services, the three years from the date of the last account, and also claims for work done or wages owing a separate account, or a claim to be made, is presumed for, in the lapse of three years from the time when it became due.

RENAISSANCE [Aristocracy, Renaissance]

RENAISSANCE [Jury, Police]

CENSORSHIP OF, a regulation, has prevailed in most countries, and still prevails in many, in which printed books, pamph-

lets and newspapers, are examined by persons appointed for the purpose, who are empowered to prevent publication if they see sufficient reason.

There are different modes of censorship, the universal previous censorship, by which all MSS must be examined and approved of before they are sent to press; the indirect censorship, which examines works after they have been printed, and, if it finds anything objectionable stops their sale and confiscates the edition, and marks out the author or editor for prosecution; the optional censorship, which allows an author to tender his MS. for examination in order to be discharged from all responsibility afterwards; and lastly by a distinction which has been very commonly made between newspapers or pamphlets and works of a greater bulk, the censorship of the journals, which exists even in countries where larger works are free from this superintendence. All these forms of censorship imply an establishment of censors, examiners, inspectors, or licensors as they have been variously called, appointed for the purpose, a provision quite distinct from the laws which define the various offences which a man may be guilty of by publication. These are representative of penal laws, whilst the censorship, and especially the previous censorship, is essentially a preventive regulation.

The censorship may be said to be coeval with printing. In more ancient times, those writings which were obnoxious to the prevailing political or religious systems, if they fell under the eyes of men in authority, were condemned to be destroyed. Thus, all the copies of the works of Protagoras which could be found in Athens were publicly burnt by sentence of the Areopagus, because the author expressed doubts concerning the existence of the gods. Persons defamatory and satiric were also forbidden. Socrates at Athens was banished, some say put in prison, for having, in his plays, cast reflections on several personages. Augustus ordered the satirical works of Lucianus to be burnt, and Ovid's alleged or probable cause of exile was his amatory poetry. The senate under Tiberius condemned a work to be burnt, in which Cassius was

styled the last of the Romans. Diocletian ordered the sacred books of the Christians to be burnt, and afterwards Constantine condemned the works of Arius to the flames. All these, however, were penal proceedings independent of any censorship. The councils of the Church condemned books which they judged to be heretical, and warned the faithful against reading them. Afterwards the popes began to condemn certain works and prohibit the reading of them. In the time of Huss and Wycliff, Pope Martin V excommunicated those who read prohibited books. The introduction of printing having awakened the fears of the ecclesiastical authorities, several bishops ordered books to be examined by censors. One of the earliest instances of this is that quoted by Johann Beekmann, in his 'Book of Inventions,' of Berchthold, Archbishop of Mainz, who in the year 1486 issued a mandate, in which, after censuring the practice of translating the sacred writings from the Latin into the vulgar German, a language, he says, too rude and too poor to express the exact meaning of the inspired text, he adverts to the translations of the books of the canon and civil law, works, as the archbishop says, so difficult as to require the whole life of man to be understood, a difficulty which is now increased by the incompetence of the translator, which renders obscurity still more obscure. His grace, therefore, setting a full value on the art of printing, "which had its cradle in this illustrious city of Mainz," and wishing to preserve its honour by preventing it being abused, forbids all persons subject to his authority, clerical and lay, of whatever rank, order, and profession, to print the translation of any work from the Greek, Latin, or any other language, into German, concerning any art, science, or information whatever, publicly or privately, unless such translation be read and approved of before being printed, and, when printed, before being published, and furnished with the written testimony of one of the doctors and professors of the University of Mainz, named by the archbishop, one for theology, one for law, one for medicine, and one for the arts. All who violated this order were to lose the book, pay a fine of one hundred

gold florins to the Electoral Chamber, and be excommunicated.

Then follows the archbishop's canon to the censors: "That no province translate, print, or print book in German, unless the censor has previously read and approve it. And he directs them to refuse publication to such works as offend morals, or whose meaning can be made out, and may give rise to scandal. To those works which he approves of they shall affix the sanction, two of them jointly, in handwriting.

There were works printed in 1474 bearing the approbation of the rector of that university, and in an Heidelberg edition of 1480 entitled 'Nosece triplex,' with four approbations, one by Peter Doctor utriusque Juris, and Mathias Girardo, Patriarch of Primato of Dalmatia. There is, however, no general system of censorship in the fifteenth century, which was freedom for printing, and it is a fact that the learned scholar in a letter to his friend Poliziano, expresses a wish that a censorship should be established over such as Plato recommends for "for," says Marula, "we are overcome by a quantity of beneficent books."

In 1501 Pope Alexander V issued a bull, in which, after complaints about the devil who sows among the wheat, he goes on, having been informed that of the art of printing many treatises, containing various pernicious doctrines, have been being published in the provinces of Cologne, Mainz, Treves, and he by these presents strictly commands the printers, their servants, and all others, to cease the art of printing in all the above provinces, to print no books, treatises, or writings previously applying to the respective bishops, or their vicars and whomsoever they may appoint to the same, and obtaining their licence at all expense, under pain of ex-

Elizabeth, "which orders and decrees have been found by experience to be defective in some particulars, and divers libellous, seditious, and malicious books, have been unduly printed, and other books and papers without licence." The decrees enact among other things that "no person or persons shall at any time print or cause to be printed any book or pamphlet whatsoever, unless the same book or pamphlet, and also all and every the titles, epistles, prefaces, preambles, introductions, tables, dedications, and other matters and things whatsoever thereto annexed, or therewith imprinted, shall be first lawfully licensed and authorized only by such person and persons as are hereafter expressed, and by no other, and shall be also first entered into the registrar's book of the Company of Stationers, upon pain that every printer offending therein shall be forever hereafter disabled to use or exercise the art or mystery of printing, and receive such further punishment as by this Court or the High Commission Court respectively, as the several causes shall require, shall be thought fitting." It then goes on to provide that all books concerning the common laws of the realm shall have the special approbation of the Lord Chief Justice and the Lord Chief Baron for the time being, or one or more of them, or by their appointment; that all books of history or any other book of state affairs shall be licensed by the principal secretaries of state, or one of them, or by appointment; and that all books concerning heraldry, titles of honour and arms, or otherwise concerning the office of earl-marshal, shall be licensed by the earl-marshal or by his appointment, "and further that all other books, whether of divinity, physics, philosophy, poetry, or whatsoever, shall be allowed by the Lord Archbishop of Canterbury or Bishop of London for the time being, or by the chancellors or vice-chancellors of either of the universities of the realm, for such books that are to be printed within the limits of the universities respectively, not meddling either with books of the common law or matters of state. And it is further enacted that every person and persons,

which by any decree of the Court or shall be appointed or licensed books or give warrant for printing thereof, as it also has two several written copies of same book, one of which shall be in the public registry of the licensor, to the end that he certify that the copy so licensed be altered without his knowledge, the other copy shall remain in his own hand, and upon both the copies he or they that shall allow the book shall testify under his hand or hands, that there is in the book contrary to the Church of England, nor to the state or government, nor to good life or good manners, or as the nature and subject of the book shall require, which testimony printed in the beginning of the book, with the name of the licensor. Books coming from beyond seas were to be reported by the consignee to the Archbishop or the Bishop of London, and remain in custody of the consuls until the Archbishop or the Bishop of London, or the consuls sent one of their chaplains or other learned man to be present with the master and wardens of the Company of Stationers, or one of them, at the house of the Company for the purpose of examining the books transmitted. And if there is any schismatical, or offensive among them, it was to be reported to the Archbishop of Canterbury or the Bishop of London, or the consuls, to be dealt with accordingly. All books, ballads, or portraits were to bear the name of the printer or engraver as well as the author or maker. All printers were to take out a licence. Their names were fixed and their names were printed.

The war between Charles and Parliament, and the assault on royal authority, did not affect the Long Parliament's practice just as the Star Chamber.

by an order of the Commons of Parliament appointed by Statute of London to bring pamphlets and other printed papers of the proceedings of House of Parliament, down away the printing-presses of the printers of

It was issued an order of Commons assembled to the regulating of printing-presses the press late printed down to printing-presses, printers, that printed pamphlets to the use of the press and printed that no book printed of any such book printed that their books printed printed or put to sale by persons whatever unless they appeared and furnished with of each printed or printed of the House of Commons for the licensing and control into the of the Company of Stationers to an act custom. And therefore in requires the order of the said company, under of the House of Commons of the Commons to depose, together with printed appointed by the House of Commons for to make from time to time in all places where they were, for all unlicensed and all persons any way printing of scandalous or seditious pamphlets, books, &c. before, and during the Session Hall of the said

consequence of this order was made his Majesty's the Statute of Commons printed to the parliament of which he shows that the printing regulated with the same, and that it ought not to be a permanent custom to print in manuscript and to

parliament is only a revival of the former order of the House of Commons. Hence a disputation is a piece of cheap reasoning and eloquently written, but it had no effect upon parliament, which continued to sanction the restraint upon the press, even after the admission of royalists. A warrant of the Lord General Fairfax, dated 29th of January 1648 was addressed to Captain Richard Lawrence, Marshal General of the Army under the command, in virtue of an order of parliament, dated 25th of January 1648, to put in execution the ordinances of parliament concerning unlicensed and unlicensed pamphlets, and especially the ordinance of the 29th September, 1647 and the order of the Lords and Commons, dated 14th June, 1647, for the regulating of printing. The marshal general of the army is "required and authorized to take into custody any person or persons who have offended or shall hereafter offend against the said ordinances and orders upon these such unlicensed pamphlets, and levy such penalties upon them for such offence as therein mentioned and not discharge them till they have made full payment thereof and received the said pardonment accordingly. And he is further authorized and required to make diligent search from time to time, in all places wherein he shall think meet, for all unlicensed printing-presses any way employed in printing scandalous and unlicensed papers, pamphlets, books or ballads, and to search for such unlicensed books, papers, tracts, &c."

The parliament of 1650 appointed a committee to watch all seditious publications, in which reports several books, religious or controversial were ordered to be burnt.

The parliament of 1650 appointed a committee to consider the way of suppressing private presses and regulating the press and suppressing and punishing scandalous books and pamphlets. The Protector Cromwell referred these reports in order to prevent the agitation of political questions. In October, 1651 the council at Whitehall ordered that no person shall presume to publish in print any matter of public concern

intelligence, without leave and approbation of the secretary of state. There appeared also an order of the protector and council against printing unlicensed and scandalous books and pamphlets, and for regulating printing. Cromwell however was disposed in general to rescue the victims of religious intolerance from the hands of their persecutors, the Independents and the Presbyterians.

After the Restoration, Roger Lestrangé was appointed licenser of printing. He wrote in 1663, 'Considerations and Proposals in order to the Regulation of the Press.' Lestrangé seems to have retained his office till the revolution of 1688, when he was succeeded by Fraser, who, it was said, was shortly after removed from his office for having allowed Dr. Walker's 'True Account of the Author of *Eikon Basilike*' to be printed. Edmund Bohun, a Suffolk justice, was appointed in Fraser's place. In a pamphlet printed in London in 1693, entitled 'Reasons humbly offered for the Liberty of Unlicensed Printing; to which is subjoined the just and true Character of Edmund Bohun, the Licensor of the Press, in a Letter from a Gentleman to the Country to a Member of Parliament,' there is a specimen of Bohun's licences: "You are hereby allowed to print and vend a certain book, . . . and for so doing this shall be your sufficient warrant. E. B."

The act passed under Charles II. in 1662, which was, with few alterations, a copy of the Parliamentary ordinances concerning the licensing of printing, expired in 1679, but was revived by statute 1 Jac. II. c. 17, and continued till 1692. It was then continued for two years longer by statute 4 William and Mary, c. 24, and it expired in 1694, when the licensing system was finally abolished in England, but the question of its revival was repeatedly agitated in parliament, as we see by a paper dated 1703, entitled 'Reasons against restraining the Press,' which deprecates the intention of reviving the licensing system; and by a much later and bolder pamphlet dated 1722, styled, 'Letter to a Great Man concerning the Liberty of the Press.'

Under the old French monarchy, all

works previous to being printed were examined by the royal censors; if approved, were signed with the mission. The French censors were originally in the hands of the bishops for all matters concerning ecclesiastical discipline. By order of the bishops delegated this power to the faculty of theology, and the government of Paris sanctioned the practice. The manuscripts were laid before the faculty, which appointed two doctors of divinity to examine them. They made their report to the general assembly of the faculty, which approved or rejected the work. Printers then were not exempt from this rule. The learned Cardinal Sadolet, who was of Carpentras, was refused permission to print a commentary which he had on the Epistle of Paul to the Romans in 1532. Cardinal Sanguin was refused permission to publish a work in 1542. As at that time a great number of heterodox books were pouring into France from abroad, the Parliament of Paris, by a decision of the 15th of May 1547, authorised the faculty of theology to examine all books imported from foreign countries. Towards the beginning of the following or seventeenth century, the great increase and accumulation of new books having induced the faculty to omit their reports to the general assembly of the faculty, the faculty issued an order to the printers not to give their approbation to any works without mature consideration under penalty of suspension from office. In 1624 the faculty itself divided into parties on some national controversy, Dr. Duval, the head of one of the parties, obtained letters patent for himself and his colleagues, by which they secured the exclusive authority of approving books concerning religion and ecclesiastical discipline. The faculty opposed against this innovation, but Duval maintained his appointment. At Duval's death, the faculty resumed its old powers, but in 1648, the censors concerning grace having printed a multitude of polemical works relating to which the faculty would not

inserted this novel document in its columns, upon which the official *Moniteur* observed, in a tone of ill humour, that the Emperor had been surprised to learn that an estimable writer like M. d'Harleville should need permission to publish a work bearing his name; that there existed no censorship in France, that any French citizen could publish any book that he thought proper, being responsible for its contents before the tribunals, and pursuant to a decree of his Majesty, if charged with any thing derogatory to the power of the Emperor and the interests of the country.

In Napoleon's kingdom of Italy the censorship was likewise declared to be abolished, but on the day of the publication of a work two copies were to be deposited at the office of the Minister of the Interior. A commission, styled likewise "of the liberty of the press," examined the book and made its report to the Minister, who, if he saw reason, stopped the sale of the work, and ordered the author or printer to be arrested and tried. Those who wished to avoid such risks, were allowed to lay their MS. before the commission, which returned it with such corrections or suppressions as it thought advisable. This was called the facultative or optional censorship.

At last, in 1809-10, the project of a definitive law concerning the press in France became the subject of frequent discussions in the Council of State, in which Napoleon took a part. "I conceive," said he, "the liberty of the press in a country where the government is acted upon by the influence of the public opinion, but our institutions do not call upon the people to meddle with political affairs; it is the business of the Senate, the Council of State, and the Legislative Body, to think, speak, and act for the people, and the liberty of the press would not be in harmony with our system, for the manifestation of the power of public opinion would only be productive of disturbance and confusion." On the question of the censorship the more liberal councillors of state argued in favour of the optional censorship, by which authors of their own accord laid their works before the censors, should be relieved

from further responsibility. "Those councillors who previous and obligatory censors as Cambacérès, Male, Pasquier, and Regnier, maintained the publication was a species of that in a country like France, the instruction was so organized as not to be permitted to dangerous doctrine, it would assist to allow writers to controlled the mission of teaching they pleased. No mode of influencing the public mind escape the vigilance of the the state. Under every those who addressed public number of persons were was *not*, those who by their dressed themselves to all he watched also. It had beenously that the right of p a natural faculty; the art of social invention, and as all like all other inventions, to regulations in order to prev abused. Without the previous the suppression of a mind after publication came too late of the Council of State of 25th of October, 1809, in *Histoire de la France et de* 67. Napoleon was not for and previous censorship, be found itself placed in an awkward especially with regard to which appeared to have a heterodox tendency. He optional censorship, leaving the proper authorities the power of the printing or seizing copies of any work which dangerous. He was the offences against the state. In February, 1810, which was these discussions, appointed general of the press, with inspectors, and censors, under of the Minister of the number of printers was to every department, sixty was fixed for Paris printers and sellers were to take licence fidelity to their country and Printers were forbidden to

The duties of censors were to examine all the manuscripts, and if they considered them worthy to be printed, they were to be sent to the printer. The printer, however, was not to print anything without the approval of the censor. The censor, if he found anything objectionable, was to send it back to the author, and if he found it worthy to be printed, he was to send it to the printer. The censor, if he found anything objectionable, was to send it back to the author, and if he found it worthy to be printed, he was to send it to the printer.

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press in France during the latter years of Napoleon's empire.

At the first restoration of the Bourbons, in 1814, an article of the Charter of Louis XVIII acknowledged that "Frenchmen had the right of publishing their opinions by means of the press, conformably however to the laws enacted for the regulation of any abuse of the liberty of the press." Soon after, the *Admiral de Montagu*, Minister of the Interior, laid before the chambers the project of a law concerning the press, the effect of which would have been nearly to destroy its freedom. He proposed that all works of less than thirty sheets were to be subject to a previous censorship, *censure préalable*, excepting those in the French or foreign languages, books of laws, patent letters, and catechisms and prayer books, and *manuscrits* of literary and scientific nature. This project was examined by a committee of the chambers, which reported in its report the previous censorship. The article of the Charter said that the law should repress the abuse of the liberty of the press, but the ministerial project by its previous censorship tended to prevent it by suppressing the liberty altogether. The discussion was warm. *Montagu* maintained that to prevent and to repress were synonymous. He at last agreed to exempt from the previous censorship all works of twenty sheets and above, instead of thirty. With this modification the bill passed both houses by considerable majorities. A council of twenty censors was appointed. The office of director-general of the press was retained. Every printer was obliged to give notice of each work that he intended to print, and to deposit two copies of it when printed, at the director's office, before he published the work.

When Napoleon returned from Elba, in 1815, he did not enforce the previous censorship. *Montagu*, and he, they had published whatever they pleased against him, and the Bourbons, and the nation was now restored. The other regulations however concerning printing and publishing were maintained, and the press and the censor were active at various times during the hundred days. The previous censorship was temporarily re-established.

and abolished again under the second restoration of Louis XVIII. After Charles X came to the throne he abolished the previous censorship altogether, and by so doing he gained a momentary popularity with the Parisians. But the press, and especially the newspaper press, did not show any great extent of gratitude for the boon, for it proved throughout his reign a sharp thorn in his side, as may be seen by the famous report of his ministers, upon which rested the ordinances of July, 1830, were based. That report was attributed to M. Chateaufort, the keeper of the seals, but it was signed by all the ministers. It contains an able, an eloquent, and, in the main, a true exposition of the crafty and perverting course of conspiracy by which the press was constantly creating or feeding a determined hostility towards the king and his government, casting suspicion upon and misrepresenting all their acts, even those which were evidently beneficial and liberal, because they proceeded from persons whom the press itself had rendered unpopular, appealing to the passions and prejudices of a susceptible and uneducated multitude, and thus rendering, in fact, government impossible. This report is a very interesting historical document, and ought to be read by those who wish to form a dispassionate judgment of the press, and its powers for good and evil. "At all times," said the minister, "the periodical press had been, as it was in its nature to be, an instrument of disorder and sedition." Accordingly the first of the ordinances of Charles X, signed the 27th of July, suspended the liberty of the periodical press, no journal was to be henceforth published without a special authorization of the government, which was to be renewed every three months. All pamphlets or works under twenty sheets of letter press were made subject to the same authorization. The ordinances however were resisted, and the revolution of July was the result. The revised charter which was afterwards promulgated, 'Charte de 1830,' in its seventh article, says: "Frenchmen have the right of publishing and printing their opinions, conformably to the laws. The censorship shall never be re-established."

New laws however were to repress the abuses of the press, which the law of the 26th of 1825, as we believe, the same bodies or refers to many of the laws of the Empire and the 1830. It specifies the crimes and misdemeanours committed by means of the press, and assigns the penalty to each. Proprietors of political journals are to deposit a considerable sum in the treasury as a security for their behaviour. One hundred thousand francs, or four thousand pounds sterling, is the deposit required for a daily paper, and one half the sum for a paper.

There is a material difference in the constitutions which have led to the model of France, between the constitutional principle, such as the press, individual liberty, &c. application as modified by the codes of laws, which are chiefly Napoleon. However, the press is more free in France than under Napoleon or the old regime, but it is still far from having as wide uncontrolled freedom of England, which may be truly said to be the freest in the world. The method of controlling oneself would be to pick out two or three more ultra-liberal English or Irish papers, and examine them according to the laws in France, which come under the name of the 'Code de la Presse,' how often they would be found offending against the provisions of the code, and what penalties they were incurred for each offence. This is the French code of the press, severe.

The absolute monarchies of Russia, Austria, Prussia, and the States, retain the obligatory censorship of the press, which is from the very principle of the government, that of parental authority over subjects. In some of the States there is a double censorship, ecclesiastical and the other by the civil censor. But even then it happens that after a work has been

violation of the king, either on general grounds or on the occasion of any particular act, shall be punished for life, and if he refuses without permission, shall be sent to hard work for life. Whoever shall censure or vilify the monarchical form of government in general shall be exiled from three to ten years. Any libel against the person and honour of the king, or any member of the royal family, shall be punished with exile. Whoever publishes a work tending to deny the existence of God, or the immortality of the soul, or to cast censure or ridicule on the fundamental dogmas of the Christian religion is to be punished likewise. Any one who shall attack or ridicule the tenets of the other Christian communions tolerated in the kingdom, shall be punished by a short imprisonment in bread and water. The same punishment is assigned to those who shall offend public morals by their writings. Any one defaming a foreign prince friendly to Denmark, or ascribing to his government any unjust or disgraceful act, without quoting any authority, shall be sent to hard work in a house of correction for a limited period.

The liberty of the German press, or the thing so called, varied in former times according to the spirit of the different governments. As long as the emperors of the house of Austria were under the influence of the Jesuits, they tried to establish certain rules in order to check the press equally all over the empire, and an imperial commission was appointed, which sat at Frankfort on the Main to watch over the productions of a host of authors. The states of the empire however showed little deference to imperial orders, many of them allowed the press nearly complete freedom, and Saxony being foremost among them, the booksellers came to assemble at Frankfort, and chose Leipzig for the centre of their extensive trade, which it has remained ever since. King Frederick II of Prussia granted liberty to the press "because it amused him" but he continued the editors of newspapers "to act cum prece, solis and especially not to give offence to foreign states." The censorship was abolished in Bavaria in 1803, in Hesse and Mecklenburg it existed only

casually and in Holstein it had always been free, but the exception, and in most of the Catholic states, especially in Austria, was most anxiously checked. Great exertions of the German states put down the power of Napoleon, established most of the royal power, their thrones, seemed to flourish, and the press corresponded, in Art 1st of the Act of Federation, "that the diet should itself in its first meeting, with general rules concerning the Germany." The union that such rules would be in favour of liberty of the press, but it was manifest that they were greatly in forming such sanguine hopes of the minor states, however, the censorship in Saxony in 1815, in 1817 and 1819. The political agitation of after the downfall of Napoleon, desire of a new order of things seemed to take the same turn, as in Spain and Italy, caused the rulers to hold a congress at Karlsbad in 1819, by which the German press was enslaved by the diet. All books or other printed matter under twenty sheets should be subject to a censorship. The spirit directed this censorship was arbitrary and harsh, and led to the most dangerous kind between representative bodies of the states and rulers. Not was the liberty of the books above twenty sheets and political authors experienced many persecutions, strangely enough, religious might be treated with perfect freedom.

The French revolution in 1793 induced most salutary effects in Germany. The people rose in arms demanding constitutional rights, and where the press, and the rulers were compelled to grant their claims. of the new constitution of the Kingdom of Hesse, it is said that the press trade shall enjoy complete freedom and that the censorship shall be in cases specified by the diet. laws were made in the Kingdom

that abolitionist newspapers are seized at the post-office.

The republics of Spanish America likewise acknowledge the principle of the unfettered liberty of the press, however it may have been often violated in practice amidst the never ending factions and civil wars of those countries. The constitution of the Brazilian Empire establishes the freedom of the press without any censorship, but an author is liable to punishment in such cases as are prohibited by law.

(Beckmann, *History of Inventions*; Barton, *Drury*; *Encyclopédie Méthodique*, section "Jurisprudence," art. "Censure des Livres," Tribaudeau *Histoire de la France et de Napoléon Bonaparte*; Bacqua, *L'Esprit de la Législation Française*, 1-51; *Collection de Constitutions et Chartes*, by A. Dufau, etc. Paris, 1830, and the other works and pamphlets quoted in the course of this article.)

PRESUMPTION. A presumption is variously defined. The following is a definition.—"A presumption may be defined to be a belief as to the existence of a fact not actually known, arising from its necessary or usual connection with others which are known." (Starkie, *Law of Evidence*, i. 27.) In another passage (p. 124), the same definition is given in substance, with the word "inference" substituted for "belief."

A fact may be proved by the immediate knowledge of the witnesses to it, which is called direct evidence. If it cannot be so proved, some other fact may generally be proved by direct evidence, from which the fact in question may often be inferred. If such other fact can be proved, and the existence of the fact in question can be inferred, such inference is a presumption. The inference may be either strictly logical or necessary, or it may be only probable, that is, the fact inferred may be true or it may not be true. If we cannot infer from the fact proved that the fact in question may be true, there can be no presumption at all as to such fact. In all cases, then, in order to establish a presumption, there must necessarily be an inference from a fact or facts; but the inference may be either necessary or pro-

bable. If necessary, it cannot be disproved; if probable, it may either be disproved by evidence, or it may not be possible to disprove it, from want of evidence, and yet the inference will still only be probable.

Presumptions which are necessarily true can hardly ever be considered as conclusive in any system of law. Presumptions which are only probable cannot be made a part of positive law, but as a necessary presumption, that is, one which cannot be disproved, or which disproving evidence is wanted, the inference is only probable, the law may give it the same conclusion as a necessary presumption.

A presumption, when established, is a fact when proved, is the same as a fact proved in each of the particular systems of law requiring a fact to be proved. If, then, it proves any legal consequence, a fact when proved, it annexes to it what the fact is legally proved to be only by virtue of legal connection annexed to facts that the objects of jurisprudence. The meaning then of a presumption, in law, is only the establishment to which certain legal consequences are annexed.

In our own system, the presumption is sometimes made by a judge or of judges, and sometimes by a jury. The consequences are the same. Writers say that presumptions are "legal and artificial." They divide "artificial or legal presumptions" into two kinds, immediate and mediate. "Immediate are those which are made by the law itself without the aid of a jury. Mediate presumptions are those which are made not by the aid of a jury." Presumptions may therefore be divided into three classes: 1. Legal presumptions made by the law itself, or presumptions of mere law. 2. Legal presumptions made by a jury, or presumptions of mere fact. 3. Mixed presumptions, or presumptions of mixed law and fact. (Starkie, p. 124.)

The first class of presumptions

Though this division of presumptions is far from being characterised by precision, it cannot be denied that it is a kind of index to the practice of the courts as to presumptions. The division is founded—first, on the fact that certain presumptions, which are by no means necessary consequences from the facts proved, are admitted by the judges either as conclusive or as valid, till they are disproved, these presumptions are sometimes made by the court, but when it is necessary the court will permit or advise the jury to make them in order to arrive at a conclusion as to the fact in question. and, secondly, it is founded on the different functions of the judge and the jury, the former declaring the law, and the latter finding the facts, when their assistance for that purpose is necessary.

The presumptions of *mere law*, whether made by the court or by the jury under its direction, are really artificial rules of proof which have been established by judicial decisions, or which in any new case the court upon due consideration will make, and if necessary will direct the jury accordingly.

In those courts where there is no jury, one ground of the classification made by Starkie does not exist, and the judge makes his presumptions either in conformity to the technical rules of his court in cases to which they apply, or he makes his presumptions in cases where there are no technical rules, just as a jury does or any indifferent persons do upon facts submitted to them for their consideration.

Presumption then is either a positive rule by which a certain conclusion is declared by statute, or by the judges, or by the jury under the direction and advice of the judges, to follow from certain other proved facts; or it is a conclusion from certain other proved facts which a judge or a jury may make if they find the probative force of the proved facts sufficient to induce them to make the inference called by Starkie a natural presumption, or presumption of mere fact. Presumptions therefore are incident to every head of law in which proof is required; and the presumptions which are positive rules of law are part of the

law of the things to which they apply. The subject of Presumption is an important part of the law of evidence, it requires a better discussion than yet received.

The term "presumption" is used occasionally in the 'Digest,' as an inference from a fact to another fact. (*Dig.*, 22, tit. 1, § 1.) A general rule as to proof is, *affirmus negat prove* who asserts must prove the contrary. "There are, however, facts which are presumed until the contrary is proved. In such presumptions, he who asserts the fact is accordingly relieved of it, the burden of proof is transferred to the person who maintains the non-existence of the fact, as for example, the presumption of a right which has once been presumed, and consequently he who maintains that it has ceased must prove it. he who asserts that he has a right is required to prove its acquisition, but what is contained in his possession he still has it." (*Puchelt*, ii 183.)

(Bentham, *Rationale of Evidence*, Starkie, *On Evidence*, On Evidence.)

PRESUMPTIVE EVIDENCE. (See ASCERT.)

PRICE. Political Economy distinguishes between both of natural or necessary price and market price. The natural price of commodities, it is said, is determined by the cost of production, in other words, by the amount of labour expended on them; and the market price is the price for equal quantities of labour. The natural price of ascertaining what amount of labour is not unduly expended; and it is an equality of labour is not determined by time only, but the kind of labour to be taken into the account. The price is the same thing with the expression Real Value, to be dependent solely on the amount of labour necessary for the production of the thing. The market price is the value is that value in exchange actually got for anything, and it will always be the same as the

time or real but the exchangeable value of a good, never varies materially save insofar the real value varies; the extent of production is limited in that which regulates the price when industry is not restrained but this doctrine is sometimes confused with a limitation the things themselves be such as can be indefinitely increased in quantity by the application of fresh capital and labour in their production.

According to this doctrine labour is the measure of real value and real value is derived much from exchangeable value but labour itself requires a representation, something that shall measure and labour compared with a value, and gold and silver are commonly used for this purpose. But gold and silver vary both in real value, as above stated, and in exchangeable value. It is said all which is, that there is no measure of the value, either value of the labour even the amount of gold or silver, which can be got for things, must be ascertained either by market without any price being asked, or the things are bought or by an exchange of money, in which case the commodities have a money value upon them, or by giving gold or other things which are equivalent to a certain value.

Exchange is called increased the value can usually made by giving of money for other things, or by arrangement which is equivalent to standard metal as far as concerns the value of things. The exchangeable value the market price of a thing is the money which it really brings. It has value to offer for hire, and so, by labour, or by labour and capital, which is the economic power of labour produces a thing. Under the ordinary circumstances they know pretty nearly what they get for their labour but the price they will get is either a matter of contract with some determinate person or person, or it is that market price as a general rule varies during a period of time within certain limits which are usually well ascertained. The

principle which determines whether a man will continue to offer his labour for the hire or price which at any particular time he can learn for it, or will continue to produce things for the price which at any particular time he may be able to get for them, is stated in Political Economy.

Some writers who have laid down the doctrine of natural and market price as above stated have however, not overlooked the facts which are exceptions to the doctrine. Professor Lusk remarks 'The Issues of Wages, Profits and Rent, Introduction, § 6. All commodities may therefore be divided into two kinds as to their exchangeable value, one, that class which being the product of man, will command as much labour in the market as it has cost to produce them, the other, the product in part of nature, in which the labour they will command may greatly exceed that expended in obtaining them according to the proportion between the competition to produce them and the supply. The division is here made in order for the purpose of showing that some commodities have possessed that the labour expended in things is not always the measure of their exchangeable value. It remains for economists to consider whether the labour expended upon anything can in any case with any propriety of language be considered the measure of its exchangeable value. For labour, it is affirmed given to everything its exchangeable value, which is true. It is also said that the amount of labour regulates or determines the exchangeable value. But it is admitted that the value of labour itself depends on the demand for it and the supply. Therefore, according to this theory, exchangeable value is regulated or determined by labour, the exchangeable value of which labour is determined by something else. The term labour is here of course used in its comprehensive sense, as including all means, material and not material, by which anything is brought into that form in which men desire to have it, and brought to that place in which the men are who desire to have it.

The terms Natural Price and Real Value, if they are taken to signify merely, an

they must be taken, the value which a man in his own estimation puts on the things which he has produced, may be convenient terms, though the word Natural is a word always liable to abuse, and Real is a singular kind of term to indicate the value which a man sets on his own labour. If he wants to keep the product of his labour for himself, he may call it by any name that he likes. But as a general rule, the real value of a man's labour, that which he can realize for it, is the value of it to others, its exchangeable value. The exchangeable value of a thing is its realization: the so-called Real value is idealization, which often fails to become reality.

A man may admit that labour is the sole source of wealth, and of all exchangeable value, and that the cost of production is an essential element in the exchangeable value of all commodities, without admitting that the cost of production is the regulator of selling prices. He may contend that in the actual operation of exchanges it is the efficient demand, the will and the power to purchase, combined with the supply that really regulates the selling price of all things.

These two opinions are not so directly opposed as at first sight may appear. There are two ways of viewing the subject of exchangeable value. The mode which some economists adopt is to trace it from the operations of a rude and savage state to the complicated conditions of modern society—a process something like that of tracing government from a supposed state of nature to the actual condition of existing governments. There is nothing gained by this mode of viewing the subject, and it involves the introduction of certain hypotheses not necessary to the investigation. The other method is to view societies as they exist, and to analyse the complicated movements, in which consist their activity and energy. In this actual condition we know on what terms buyers and sellers meet in the market. Each brings to market what he does not want, and he gets what he can. Each knows that the other expects and desires to make a profit by the exchange, and that if there is not profit on both sides, or what both parties consider to be

profit, the exchange will not take place. Each therefore has his own estimate of that which he would give in exchange, and he is moved to produce or to offer in exchange by the general price of that which he gives in exchange. His power to produce and his power to exchange are therefore regulated by something which is common to his production and which regulates the production of others. The exchangeable value of a thing therefore, as determined by its selling price at a given time, is the average of selling prices for a given period, is in practice the real value of the labour of him who produces it. A man who ventures on the production of a new article can only guess at the price it will exchange for such a value as will give him a profit, and he is guided by the price of similar articles already in demand cheaper than his hitherto produced. He has a chance of a profit, and a larger profit than before, unless he has competitors in the market. Competition will reduce his rate of profit. The selling prices of any given article, the average of such prices for a given period, regulate the operation of exchanges both as to the quality and the amount of the articles which are produced. The producer has always to refer both to the cost of that which he produces and the probable price that he can get for it. The price that he can get for it determines the cost of his production. He can the cost of his production, and the price that he can get for it, does produce with reference to the price which he expects to get for it. A consumer who buys his commodities considers the cost of its production, and simply avails himself of the offer of the sellers to get it at the lowest price. If it is an article of necessity, he must buy so long as he has the means of buying. If it is an article of luxury, he will often do without it, if the supply does not allow him to have it on his own terms, and he leaves the producers to make the best of their situation.

The difficulty of attaining to any degree of precision on all such subjects is inseparable from the complexity

elements which enter into them. Most of great economical writers in the abstractness of the principle which they lay down for there is no principle applicable to the industry which is subject to being laid down in absolute and final terms. Another obvious fault of economical writers consists in analysing the operations of society as actually are, but in building up systems almost entirely on certain

and similar opinions on Price are found in his seventh chapter upon the value of money, the edition of Smith edited by Knight & Co., 1840. The views of a modern school are contained in Mr. J. 'Political Economy' in the third supplement to the 'Encyclopædia Britannica'. This article, with notes upon it by the Rev. J. Mill, has been republished at New

PRIMOGENITURE may be defined that rule of English law by which the descent of an estate in land goes to a person in respect of his being the eldest male. If a man dies seized of an estate of which he had the absolute ownership, without having made any disposition of it by his last will the whole goes to the heir at law or customary and the heir at law is such by reason of being the eldest male person of the blood in the same degree of relationship to the person dying or the representative of such eldest male. [Deas.]

This is a case in which primogeniture operates. A common example of its operation is where a father dies seized of an estate in real estate and by his will, in which the eldest son takes it all. If land is devised or entailed on a man and his heirs the eldest son takes the land as to the fee, first as being a male, and second as being the eldest son. The law of primogeniture then only applies in the case of land when the owner dies without having made any disposition of it by will, or where the land is settled on a man and his male heirs. It does not apply to the interest in land is a chattel mortgage, or a term of years, whichever

may be its duration, nor does it apply when real estate descends to daughters as coparceners.

At present, those who are the absolute owners of large landed estates seldom die without making a disposition of them by will. In the case of lands which are settled, the person in possession is generally tenant for life, and the inheritance is entailed on the eldest son. When the eldest son is about to marry, it is usual for the father and son to take the usual legal steps which they can do as soon as the son is of age to acquire the estate and change the absolute ownership. They then re-settle the estate, making the father tenant for life as before the son, who was before tenant in tail, is also made only a tenant for life, and the inheritance is settled as before, on the eldest son of the intended marriage. Such eldest son takes the estate not as heir and therefore not by the law of primogeniture, but as the person designated by the deed of settlement.

When a man happens to be tenant in tail, he usually takes the legal steps necessary which he can do as soon as he is of age to acquire the absolute ownership of the property, which he then generally settles again by deed or will, or disposes of absolutely.

It is usual in England to settle all large estates, and the object of the settlement is to keep the estates together, and to perpetuate them in one family; but there is a limit to this power of settlement. A man cannot either by deed or will, settle his land, so as to prevent the absolute ownership of it from being obtained, for a longer period than a life or lives of persons in existence at the time when the settlement takes effect, and twenty-one years more.

Lands in Germany and Denmark are an exception to the general rule of law as to the descent of land.

The law of primogeniture then only operates in the cases already explained; and the system of settlements by which property is kept together in large masses is quite distinct in principle from the law of primogeniture. It is not the result of a law which favours primogeniture, but it is the result of the legal

power which an owner of land has over it, and of the habits of the people. The various reasons which have laid the foundation of this habit, and which perpetuate it, are foreign to the consideration of primogeniture as a rule of law.

In Virginia, after the Revolution, an Act was passed for converting estates tail into fee-simple, and at the same time the law of primogeniture was abolished. These laws have so far been in accordance with or have acted on public opinion, that a parent by his will now generally makes the same disposition of his property as the law makes in case he dies intestate. (*Tucker's Life of Jefferson*, i. 96, &c.)

(*Remarks on Primogeniture and Entails*—Hayes, *Introduction to Conveyancing*.)

PRINCE is the Latin word *princeps*, which was originally used to denote the person who was entitled *Princeps Senatus* in the Roman State. He seems to have been originally the custos of the city, and his office was one of importance. Subsequently it became a title of dignity, and the princeps was named by the censors. (*Liv.*, xxvii. 2.) Augustus adopted the title of princeps, as a name that carried an odium with it (*Tacitus, Annal.*, i. 1); and this became henceforward the title of the master of the Roman world. Accordingly the constitutions of the emperors are called *Principum* (*Gaius*, i. 2), or *Principales*. The word princeps is formed similarly to *anceps*, *muncieps*, &c., and contains the same element as "*primus*." The word prince, which is derived from princeps, is now applied to persons who have personal pre-eminence, and especially to certain sovereigns of small states who possess sovereign power, and also to others who possess the title without sovereign power or anything that distinguishes them politically from other nobles or persons who enjoy privileges. But the word seems not to have acquired so definite a sense as that which belongs to king, duke, marquis, earl, and some others of the class—but rather to denote persons of high rank in certain states, as in Prussia, Russia, Italy, and other continental states, or persons who are junior members of sovereign houses.

In England it has sometimes the practice of the heralds to speak of as the high and mighty prince, the word seems rather to be restricted to us in its application to persons of the blood-royal, that is, a son or nephew of a king, and is probably be extended to the posterity of such persons. It has arisen in the course of the centuries. But in its application is merely a term of common usage being conferred, like the title, in any formal manner, and of precedence which is given to him in respect to birth, and not to that of this word as a title of nobility. The eldest son of the king or queen is made Prince of Wales by the PRINCIPAL. AND

[AGENT.]

PRIOR, PRIORY, ecclesiastical denoting certain monastic houses and the heads of such foundations differ in nothing essential from the terms abbot and abbey. In England religious houses, which were called priors, and as powerful as many the who was called the abbot of Yorkshire there were two great distance from each Roche and Nostel, the head being an abbot and of the though Nostel was the more more considerable foundation has the distinction respect to which the house belonged; it had an abbot, while Fountains a prior, and yet both were houses. The prior of St. Jerusalem was equal to any of the main we find the great foundations presided over by were called abbots, as Gloucestersbury, Tewkesbury. In ante-Norman foundation there was both an abbot when the abbot was regarded as a superior officer, and in the was often a second officer or prior.

PRISONER. [TRAYTOR] PRIVATE ACT. [P] PRIVATEER, a private

confined itself to mere matters of state. It had always and still has power to inquire into all offences against the government, and to commit offenders for the purpose of trial in some of the courts of law, but it often assumed the cognizance of questions merely affecting the property and liberties of individuals. This is evident from the complaints and remonstrances that so frequently occur in our history, and ultimately from the declaratory law of the 16 Chas I, referring to such practices. Probably the very statement of Sir Edward Coke, that the subjects of their deliberation are the "public good, and the honour, defence, safety, and profit of the realm . . . private causes, lest they should hinder the public, they leave to the justices of the king's courts of justice, and meddle not with them," proceeded from his knowledge that such limits had not always been observed, and his jealousy of their invasion. Several other passages in his works seem to show that this was so. These encroachments, in one arbitrary reign, received the sanction of the legislature. By 31 Hen. VIII. c. 8, the king, with the advice of his privy council, was empowered to set forth proclamations under such pains and penalties as seemed to them necessary, which were to be observed as though they were made by Act of Parliament. It is true there was an attempt to limit the effects of this, by a proviso that it was not to be prejudicial to any person's inheritance, offices, liberty, goods, or life. The statute itself, however, was repealed in the first year of the ensuing reign. The king, with the advice of his council, may still publish proclamations, which are said to be binding on the subject, but the proclamations must be conformant to and in execution of the laws of the land. The attempts to enlarge the jurisdiction of the council appear always to have been resisted as illegal, and they were finally checked by the 12 Chas I c. 10. That statute recites that of late years "the council hath assumed unto itself a power to intermeddle in civil causes, and matters only of private interest between party and party, and have adventured to determine of the estates and liberties of the subject,

contrary to the laws of the rights and privileges of the same; and by the same statute it is declared that neither his majesty nor council have or ought to have jurisdiction in such matters, but ought to be tried and determined in the ordinary courts of justice, and ordinary courts of law.

Subsequently, however, in matters arising out of the courts of the kingdom, and admiralty causes, and other matters, where the king himself in council continued to have jurisdiction, even though the questions were to the property of individuals. Wm IV c. 92, the powers of the court of delegates, both in civil and maritime causes, were transferred to the king in council. The matters being purely legal, it was expedient to make some alterations in the court, for the purpose of better fitting it to the discharge of this duty. Instances had been where the judges had been called upon to give extra-judicial opinions in privy council; but the practice was inconvenient and unsatisfactory, and a necessity for it is now wholly removed. By the 3 & 4 Wm. IV. c. 41, the jurisdiction of the privy council was enlarged, and there is added to the list of members entitled "the judicial council in privy council." This body consists of the keeper of the great seal, the chief justice of the King's Bench and of the Common Pleas, the master of the rolls, the chancellor of England, the treasurer of the Exchequer, the judge of the High Court of Admiralty, the judge of the High Court of Chancery, the judge of the Bankruptcy Court, and the members of the privy council who have taken the oaths of office, or have held the office of chancellor or any of the other offices. Power is also given by his sign manual to appoint other persons who are prior to be members of the council. By the 2 & 3 Wm. IV. c. 2, all appeals or applications in the courts of admiralty

In this notification the share of an individual in each class must be declared. Shares of prize-money due to a non-commissioned officer or soldier, will be paid only upon personal application, or to his wife, or child, father or mother, brother or sister, or to the regimental agent of his regiment, or to any other regimental agent. If discharged, a certificate must accompany the application, signed by the clergyman and one of the churchwardens or overseers. Personating or falsely assuming the name and character of a person entitled to prize-money with fraudulent intent is punishable with transportation for life, or not less than seven years. By 3 & 4 Vict. c. 65, the Privy Council may refer to the High Court of Admiralty matters concerning booty of war (property captured by land forces). The Prize Court of the Admiralty is the proper court for deciding on matters captured by naval forces. [ADMIRALTY COURTS, p. 29.]

PRIZE COURT. [ADMIRALTY COURTS.]

PROBATE AND LEGACY DUTIES These duties yield a sum exceeding two millions a-year. The legacy duty is charged on legacies of the value of 20*l.* and upwards out of personal estate or charged upon real estate, and upon every share of residue. Legacy to a husband or wife is exempt from duty. To a child or parent, or any lineal descendant or ancestor of the deceased, the duty is 1*l.* per cent. to a brother or sister or their descendants, 3*l.* per cent., to an uncle or aunt or their descendants, 5*l.* per cent., to a great uncle or great aunt or their descendants, 6*l.* per cent., to any other relation or any stranger in blood, 10*l.* per cent. The probate duty is payable on the total sum left by the deceased. For sums above 20*l.* and not exceeding 100*l.* the duty is 10*s.* if there is a will, and if there is no will the duty of 10*s.* is chargeable on sums of 20*l.* and not exceeding 50*l.* The duties continue to increase according to a certain scale up to 1,000,000*l.* The following tables show the operation of the legacy and probate duties for nearly half a century, and in *Porter's 'Progress of the Nation,'* vol. iii. pp. 125-133, will be found some useful

and interesting considerations duties as indications of the national wealth:—

Duty received from 1797 to 1845 inclusive.		Legacies.	Total
		£.	£.
England	.	36,696,279	2
Scotland	.	2,199,715	1
Ireland	.	829,499	1
		£39,725,493	3
Duty received in 1845.		£.	Total
England	.	1,178,866	
Scotland	.	88,073	
Ireland	.	61,629	
		£1,328,568	1

Return, showing the Amount on which the several Rates of Duty were paid in Great Britain Year 1845, and an Abstract Total Amount paid under since 1797:—

1845.		1797.	
Per Cent.	£.	Per Cent.	
1 <i>l.</i> .	24,087,848	1 <i>l.</i> .	
3 <i>l.</i> 10 <i>s.</i>	152,493	3 <i>l.</i> .	
5 <i>l.</i> .	14,595,383	5 <i>l.</i> 10 <i>s.</i>	
6 <i>l.</i> .	9,774	6 <i>l.</i> .	
10 <i>l.</i> .	1,802,190	10 <i>l.</i> .	
11 <i>l.</i> .	315,359	11 <i>l.</i> .	
12 <i>l.</i> .	93,778	12 <i>l.</i> .	
10 <i>l.</i> .	4,606,620	10 <i>l.</i> .	
Total . £45,592,714		Total . £1	

PROCESS VERBAL (*Procès-verbal*) is a term derived from French, in which it signifies a memorandum or instrument drawn up and signed by officers of justice, containing a statement of the circumstances which have place upon the execution of a process, upon an arrest, upon a preliminary examination of an accused, or in the course of an investigation, and set forth in detail the facts in which they have occurred. It is now frequently applied to a formal proceeding, though not in the course of any legal inquiry. In the course of any legal inquiry, a note of the discussion is taking place during the trial of a treaty.

PROCLAMATION. By the constitution of England, the king possesses the negative of issuing proclamations; for though this authority is exercised by the Lord Mayor in the city of London, by the hands of some other corporation in other cities, for certain limited purposes, it is always founded upon custom or charter, and consequently only acts by delegation from the crown.

The nature and objects of royal proclamations are various. In some cases they are merely a promulgation of orders of state or of acts of the executive government which it is necessary that all persons should know, and upon which, which as pronounced to be correct by a public proclamation, certain law attach to subjects. Proclamations for the accession of a new king or a new of the crown, and proclamations for reprisals upon a declaration of war with a foreign state, and for rendering in current with it the realm are examples of the kind. Another class of proclamations consists of those which declare the intention of the crown to exercise some prerogative or enforce the execution of some law which may have been for a time dormant or suspended, which a change of circumstances renders it necessary to call into opera-

Thus the king might, by proclamation in the time of war, lay an embargo on shipping, and order the ports to be shut, by virtue of his ancient prerogative of prohibiting any of his subjects from leaving the realm. — See *FRANK*

Another branch of the duty imposed
by a proclamation of this
kind would be punishable, either as a
crime, or as a misdemeanor at com-
mon law. Another and the most useful
kind of proclamations issued by the
President consists of formal declarations of
being laws and penalties, and of the
duty of punishment to enforce them,
as some of the early books term
them *de iure populi*, and merely as
a cautionary notice for the prevention of
crime. A familiar instance of this
kind of declaration is the proclamation
against vice and immorality appointed to
be read at the opening of all courts of
justice.

At present the royal prerogative does not authorise the creation of an offence by proclamation which is not a crime by the law of the land, in the language of Sir Edward Coke (3 *Inst.*, 132), "Proclamations have only a binding force when they are grounded upon, and enforce the laws of the realm". In early periods of our history after the Norman conquest, the power of the crown in this respect appears to have been much more extensive, and instances of proclamations may be found in Rymer's *Pandora*, and elsewhere, which imply an assumption of almost despotic power by the crown. In the reign of Henry VIII it was enacted by the statute 31 Henry VIII c. 8, that the king, with the advice of his council, might set forth proclamations under such penalties and pains as to them might seem necessary, which should be observed as if they were made by Act of Parliament, but this statute contained an express declaration that proclamations should not alter the law, statutes, or customs of the realm (Coke's *Reports*, part 12, p. 76), and was repealed about five years afterwards by the stat. 1 Edw. VI c. 12. A strenuous attempt was made in the reign of James I. to strengthen the crown by increasing the prerogative of making proclamations, which, though encouraged and promoted by the lord chancellor Bacon and Bacon, was resisted by Coke, and occasioned great alarm and dissatisfaction among the people. The encroachments which had been made and attempted in this respect are enumerated and complained of in the 'Petition of Grievances' by the Commons, in 1610 (Howell's *State Trials*, vol. II. p. 524), and in the same year it was expressly resolved by the judges, of whom Sir Edward Coke was one, that the king could not by his proclamation create an offence, which was not an offence before; 'for if so, he might alter the law of the land by his proclamation' (Coke's *Reports*, part 12, p. 76).

PROCURATOR, an officer of the Ecclesiastical courts, whose business is that of an agent between his clients and the courts to which he is attached. It is a shortened form of the Roman term procurator. He

the same result, a very considerable increase. They are all well adapted to the use of the

from these results it is the conclusion of the present study that the present conditions of the market are such as to make it impossible for the farmer to obtain a fair return on his investment in the soil, and that the only way to secure a fair return is by the application of the principle of the present study.

It is to be noted that the present study is a preliminary study, and that the results are only approximate. The study is intended to show the general principles of the present study, and to show the general principles of the present study.

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been remarked (*Edin. Rev.*, No. 142, p. 443), that although the inferior fertility of newly cultivated soils be the immediate cause of the diminution of the rate of profit, yet it is nothing but the competition of capitalists which drives capital to seek the inferior soil, and induces its owners to be content with a lower rate of profit. The capitalists who had accumulated at the old rate of profit are content with a new investment producing a lower rate, instead of consuming their savings unproductively.

(Ricardo, *Principles of Political Economy and Taxation*, chap. v. and xiii.; Mill, *Elements of Political Economy*, c. ii. sec. 3; and c. iv. sec. 6; M'Culloch's ed. of the *Wealth of Nations*, note vii.; *The Laws of Wages, Profits, and Rent investigated*, by Professor Tucker, Philadelphia, 1837.)

PROHIBITION, a writ to prohibit a court and parties to a cause then depending before it from further proceeding in the cause.

A writ of prohibition may issue from any of the three superior courts of common law at Westminster, and also from each of the common-law courts of Chester and Lancaster. It is generally stated that a writ of prohibition may issue from the Court of Chancery; but the Court of Chancery acts by injunction addressed only to the parties, and does not interfere with the court.

It may be addressed by any of the three superior courts to any other temporal court; such as the Admiralty Courts, to courts-martial, a court baron, any other inferior court in a city or borough, to the Cinque-Ports courts, the duchy or county palatine courts, the chancery of Chester, the Stannary courts, the Court of Honour of the Earl-Marshal, to the Commissioners of Appeals of Excise, to any court by usurpation without lawful authority, or to a court whose authority has expired. When any one has a citation to a court out of the realm, a prohibition lies to prevent his answering. It seems also that it might issue to the Court of Exchequer and to the Court of Common Pleas; but not to the Court of Chancery, nor is there any instance of a prohibition to the King's

Bench. It may be granted by any of the three superior common-law courts, any spiritual court, and by the common-law courts of Chester and Lancaster, to the spiritual courts within the county palatine and duchy.

The writ is grantable in all cases where a court entertains matter within its jurisdiction, or where, though the matter is within its jurisdiction, it attempts to try by other than those recognised by the law of England. Matter may be said to be not within the jurisdiction of a court in two senses: 1, when the subject-matter entertained is in its nature not cognizable by the court, 2, when the subject-matter is in its nature cognizable by the court, but lies out of the local district where only that court has jurisdiction; or, in the case of a court whose jurisdiction is general, when the subject-matter lies in a local district exempt from the general jurisdiction of the court or where the subject-matter of the cause relates to persons over whom the court has no jurisdiction. The effect of prohibition comprehends the circumstances under which it is granted, the person who may obtain it, and the form and incidents of the proceeding, which heads belong to legal treatises.

If parties proceed after a writ of prohibition has been obtained and they are liable to an attachment for contempt.

(Comyns's *Digest*; Bacon's *Abridgment*; Viner's *Abridgment*; tit. "Prohibition," 2 *Inst.*, 599; 3 Black. *Com.*, c. 7.)

The power of the common-law courts to issue writs of prohibition, and the mode in which they exercised that power, have often been the subject of dispute between the common law and the ecclesiastics. The ecclesiastics have several times exhibited many articles of grievance before the parliament and privy council against the common-law judges. The most famous of these was the "Articuli Cleri," exhibited by bishop Bancroft, in the name of the whole clergy, in the third year of the reign of James I. They are given at length by Lord Coke (2 *Inst.*, 38).

view of the nature of the contract between the parties, and the necessity of the policy.

Prohibition is an imperfect way

It has not been inconsistent with systems of law that a supreme court have the power in certain cases to bring inferior courts from exercising jurisdiction. The power however is necessary in a country in the law has been developed out of management and conflicting interests there is a variety of courts, which has a separate jurisdiction, each of which is that the superior by a kind of necessity must be inferior to prevent wrong

DAILY TALK [CONVOCATION]

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PROPERTY is derived, probably from the French language, from the word *Proprietas* which is used by (L. N.) as equivalent to ownership, dominion, and a right to possession. The etymology of the *propria* proprius suggests the idea of a thing being a man's own, personal notion is contained in relation of property. A foreign law defines ownership or property to be the right to deal with a corporeal according to a man's pleasure, the exclusion of all other per-

definition excludes incorporeal
which however are considered
of property in our law, and were
treated as objects of property in
our law, under the general name of
jura in re, they were considered as
parts of ownership, and as op-
erations - a word which repre-
sents the faculty of the rights of owner-
ship *facit facta Hecht des Hefters*
part. This definition also de-
scribes as consisting in a right,
a real right in rem - a *facit*
to operate on a thing by which it
is thereby distinguished from the opera-
tion of the thing, as the physical
operates upon it. Consequently
a right is not established by

the possession of the thing, and it is not lost when the possession of a thing is lost. Much a right can also be enforced by him who possesses the right by an action in rem against every person who possesses the thing, or disputes his right to it' (*Maximilien Fohlsch* *des heiligen Röm. Rechts*) p. 110. This definition, which is characterized by more precision than that of Blackstone (ii. 1), may be adopted with that addition, that dealing with a corporeal thing according to a man's pleasure, must not be such a dealing as will prevent other people from dealing with their property at their pleasure. The extent of this limitation is very indefinite, but such a limitation must be admitted as necessary. A man may destroy his own property if he likes, but the destruction must not be in such manner as to destroy any other man's property. His property then is here understood that which the positive law of a country recognizes as property, and for the protection or recovery of which it gives a remedy by legal forms against every person who invades the property, or has the possession of it.

Another objection is, 'An Outline of a Course of Lectures on General Jurisprudence' that 'domination, property, or ownership is a basic right to objection. For, first, it may import that the right in question is a right of unrestricted dominion, as well as indicate the indefinite extent of the purposes to which the entitled person may turn the subject. Secondly, it often signifies property, with the meaning wherein property is distinguished from the right of possession. Thirdly, domination, as taken with one of its significations, is exactly co-extensive with *ius in rem*, and applies to every right that is not *ius in personam*'. The first sense of the word property is ascertained by determining the quantity and quality of an estate as understood in English law. As to the second possession is of itself a right but a bare fact, and the relation to rights in rem is the same as the physical to the legal power to operate on a thing. The doctrine of possession is therefore distinct from and should precede the doctrine of property. The third sense of property has reference

to the legal modes of obtaining the possession of a thing in which a man can prove that he has property and a present right to possess.

A complete view of property, as recognised by any given system of law, would embrace the following heads, which it would be necessary to exhaust, in order that the view should be complete. It would embrace an enumeration of all the kinds or classes of things which are objects of property, the extent of the greatest amount of power over such things as are objects of property, which a man can legally exercise—and connected with them, the different parts or portions into which the totality of the right of property may be divided or assumed to be divided: the modes in which property is legally transferred from one person to another, that is, acquired and lost: the capacity of particular classes of persons to acquire and transfer property as above understood, or, to take the other view of this division, an enumeration of persons who labour under legal incapacitation as to the acquisition and loss of property.

The general division of property in the English law is into Things Real and Things Personal, the incidents to which are in many respects different in the system of English law.

Things Real are comprehended under the terms of Lands, Tenements, and Hereditaments. The word Hereditaments in the most comprehensive of these terms, because it comprehends every thing which may be an object of inheritance, both Things Real, and also some Personal Things, such as heresons, which are objects of inheritance.

Hereditaments are divided into Things Corporal and Incorporeal. A Corporal Hereditament is land, in the legal sense of the term. An Incorporeal Hereditament is defined by Blackstone to be 'a right issuing out of a thing corporate (corporeal), whether real or personal, or concerning or annexed to, or exercisable within the same.' Perhaps the definition is not quite exact, and it would not be easy to make an exact definition. The Things Incorporeal of the English law correspond in their general

character to the *Res Incorporales* of Roman Law, one distinguishing feature of which is that they are not by tradition or delivery. Such, the *Res Corporales* of the Roman Law are things which are capable of being either moveable, as a horse, or immovable, as a house. The *Res Incorporales* enumerated by Blackstone are, Advowsons, Tithes, Ways, Offices, Dignities, Parsonages or Penalties, Annuities, Rents.

The interest which a man can have in any land, tenement, or hereditament, is called an Estate, and this comprises the greatest amount of power of enjoyment, both as to time and space, which a man can legally have in any of the three things last enumerated, as well as the smallest amount of such power and interest. It also comprises, under the same term, the determination of the time when his power and enjoyment commences, as well as when it ceases. [ESTATE.]

With reference to an estate, during which the right of a person to an estate is usually expressed in the term Quantity of Estate. The time in which the enjoyment is to be continued during this time is often expressed in the term Quality of Estate, the person may enjoy an estate solely or jointly.

A person may have the estate in a thing in quantity and quality as above explained, either with or without the right to the beneficial use of the thing. The person who has merely the estate in quantity and quality has a legal estate. He who has not the estate in quantity and quality as above explained, but merely the enjoyment of such estate, while he has not, is said to have the use of the estate. The term quality of estate may be used to express this equitable interest inasmuch as we want a word to express the manner and mode of an estate as distinct from the enjoyment, and as quality is used to express that manner it must not be used in a different

are not the property of a man to whom they are due, until he gets them, so they cannot become property simply because he happens to die.

The system of the English law as to the nature of property is peculiar, and the modes in which it can be acquired and transferred are also in many respects peculiar, especially in the case of Real Estate. The discussion of these matters properly belongs to legal treatises.

Property in Chattels may, like property in Things Real, vary as to quantity and quality of interest, though things personal are not capable of such extended and various modifications, analogous to estates, as things real are. As to quantity, that is, duration, a man may have the use of a personal thing for life, and another may have the absolute property in it after his death. As to quality, persons may own a thing personal as joint tenants and as tenants in common. There is an equitable property in chattels as well as in things real. Money, for instance, is often paid to a trustee, in order that he may give the interest of it to one person for life, and after his death pay the money to another. The trustee, so long as he holds the money, has the legal property in the money, and in the thing in which the money is invested. A legatee has only an equitable interest, even in a specific legacy, after his testator's will is proved, until the executor gives the thing to him, or in some clear way admits his right to it.

Property in a thing must not be confounded with a faculty or power to dispose of the thing in certain ways. A man may have a power to do a certain act with reference to property, without having any property in the thing, or he may have a property in the thing of a limited quantity, and also a power to dispose of the thing in a certain way. Thus a tenant for life, who has only a limited property in land, may have a power given to him to make leases, subject to certain conditions, of the property of which he is tenant for life.

The property which is called copyright or patent is not strictly property. It consists in a power to do certain acts, as to produce and sell a certain work or

print or machine; and the power or faculty is made effective by the duty imposed on everybody else of abstaining from making and selling such thing. The things that are produced by virtue of such a power are objects of property, but the copyright or patent right is merely a power or faculty which is given exclusively to a determinate person or persons for a determinate time.

The notion of property is universal, though the particular rules as to property vary in different countries. Society rests on two things chiefly, marriage and the notion of property. The notion of marriage varies in different countries, there is perhaps no set of people among whom it does not exist in some form. It is the foundation of the notion of family, an essential element of a State. In fact the notion of marriage implies a species of property, which consists in exclusive dominion which a man then obtains over a woman's person, and of the children which are the fruit of the union. A community of women is as impossible as a community of property, to which the mass of mankind have an invincible repugnance founded on the natural desire of man to appropriate things to his own use. Fixed rules for the acquisition and maintenance of property are essential to the existence of society and of government. Without these rules there would be anarchy. Those who are suffering from abject poverty and those who wish to enjoy the fruits of labour, may not recognise the necessity of these fixed rules: they have often a vague notion that they would gain something by the destruction of all existing appropriations of the wealth of society. But all or nearly all who have any property cannot fail to see that they would certainly lose something by such a change and might gain nothing. Those who see still more clearly into the nature of human society, know that there can be no increase of the national wealth, which all industrious people receive a share, if those who labour are not secured in the enjoyment of that which they obtain by their labour. The enormous disparities which exist in some countries between the wealth of the

verty and on the ignorance and inexperience of young women, is certainly the most powerful of the causes of seduction. Those who would direct their efforts towards diminishing an evil which can never be entirely removed will succeed best by attempting to remove the main causes of it, by supporting every measure which will give to the labouring classes better wages, and secure to them a better and more practical education than they now receive.

As the solicitation of a woman's chastity proceeds from the male, whose passions are generally much stronger, seduction and its usual consequence, prostitution, would be most effectually checked by operating upon the propensities of the male. But it is not easy to suggest any efficient mode of doing this. All good education will contribute to this end by forming men to habits of greater self-control, and accustoming them to view the consequences to the whole of society as well as to themselves of every act of their lives.

The English law has few regulations on this subject, and it is very doubtful if any good would be effected by additional legislation. Brothels, or bawdy-houses, which is the name of houses kept for the resort of men and women, are common nuisances, and persons who keep such houses are punishable by fine and imprisonment. Fornication itself is an illegal act, and it is also punishable in the spiritual courts; but these courts perhaps seldom take cognizance of fornication now, except in the case of clergymen of the established church. Indeed, the practice of punishing fornication as such, either in courts of common law or the spiritual courts, is now fallen into disuse: the indecency or disorderly conduct with which it may be accompanied is punished. The positive morality of society is now the chief check upon fornication and a check as efficient as any legislative provision probably would be. Some recent attempts to legislate further on this subject only show the ignorance of those who think that because a law is made it will for that reason be efficient.

PROTEST. [PARLIAMENT; LORDS, HOUSE OF; PEERS OF THE REALM.]

PROTEST. [EXCHANGE, BILL, OF.]

PROTESTANT, a general term comprehending all those who profess Christianity, and are not in the communion of the Church of Rome. There is a great variety of opinion among the persons thus separated, in points of faith, church order, and discipline, but this term comprehends them all.

The term originated in Germany. At the diet at Spire, in 1526, decrees had been passed which were so far favourable to the progress of the Reformation that they forbade any peculiar measure against it. The consequence was that the spirit of reformation gained strength and spread itself more extensively in Germany. Then arose also commotions which were attributed to the reformed and to the spirit kindled by them. Both the pope and the emperor looked with increasing alarm on the aspect of affairs, and at another diet held at the same place in 1529, the emperor directed an imperial brief to the persons assembled, to the effect that he had forbidden all innovation, and proscribed the innovators in matters of religion, who had notwithstanding increased since the decrees of 1526. But that now, by virtue of the full powers inherent in him, he annulled those decrees as contrary to his intentions. The peremptory tone of these matters alarmed the persons who were present at the diet, and particularly the elector of Saxony, who reported to have said to his son that his former emperor had used such language, and that he ought to be informed that their rights were more ancient than the elevation of his family.

This strong measure of the emperor had also the effect of uniting at this point, the two great sections of the German reformers, the Lutherans and the Sacramentarians, of whom Luther was the head. However, the party opposed to the Reformation was still stronger, and the emperor's brief received the sanction of the diet. It was thus the reformers declared that they would not a business of policy or temporal interests, with respect to which they were ready to submit to the will of the majority, but it affected the interest of

mythical prince and judge of Hades, Rhadamanthys. They embodied it in the following proverbial verse.—

ὁ μὲν πάλαι τὰ καὶ ἐπὶ δίκῃ, δίκῃ καὶ ἰδὺν γένοιο.
(Aristot., *Eth. Nic.*, v. 8.)

The *talis* was also recognized in the Twelve Tables of Rome (*Inst.*, iv. 4, § 7, and upon it was founded the well-known provision of the Mosaic law, "an eye for an eye, and a tooth for a tooth;" a maxim which is condemned by the Christian morality. (*Matth.*, v. 38-40; and Michaelis, *Commentaries on the Laws of Moses*, vol. iii. art. 240-2).

The infliction of pain for the purpose of exacting a satisfaction for an offence committed is *vengeance*, and punishment inflicted for this purpose is *vindictive*.

By degrees it was perceived that the infliction of pain for a vindictive purpose is not consistent with justice and utility, or with the spirit of the Christian ethics; and that the proper end of punishment is not to avenge past, but to prevent future offences. (Puffendorf's *Droit de Nature et des Gens*, viii. 3, § 8-13. Blackstone's *Commentaries*, vol. iv. p. 11.)

This end can only be attained by inflicting pain on persons who have committed the offences, and as this effect is also produced by vindictive punishment, vindictive punishment incidentally tends to deter from the commission of offences. Hence Lord Bacon justly calls revenge a sort of wild justice.

But inasmuch as the proper end of punishment is to deter from the commission of offences, punishment inflicted on the vindictive principle often fails to produce the desired purpose, and moreover often involves the infliction of an unnecessary amount of pain. All punishment is an evil, though a necessary one. The pain produced by the offence is one evil, the pain produced by the punishment is an additional evil, though the latter is necessary, in order to prevent the recurrence of the offence. Consequently a penal system ought to aim at economizing pain, by diffusing the largest amount of salutary terror, and thereby deterring as much as possible from crimes, at the smallest expense of punishments actually inflicted; or (as the idea is con-

cisely expressed by Cicero, "ad omnes, pena ad paucos, pervenire" (*Pro Cluentio*, c. 45.)

It follows from what has been said that it is essential to a punishment painful. Accordingly, all the punishments have involved the infliction of pain by different means, as mutilation of the body, flogging or whipping, privation of bodily liberty by confinement of various sorts, banishment, forced labour, privation of civil rights, pecuniary fine. The punishment of death is called *capital* punishment; punishments are sometimes known by the name of *secondary* punishments. Moreover, the pain ought to be sufficiently great to deter persons from committing the offence, and not greater than is necessary for this purpose.

A punishment ought further to be as far as the necessary defects of political procedure, will permit, equal to the offence, and also, as far as the differences of human nature and circumstances permit, equal.

If a punishment be painful, and the pain be of the proper amount, it will be likewise tolerably equal and certain, and will be a good punishment.

The qualities just enumerated are those which it is most important that a punishment should possess. But sometimes thought desirable that a punishment should possess other qualities than those which we have enumerated.

1. Since the time when it has been generally understood that punishment ought not to be inflicted on a vindictive principle, the deterring principle of punishment, which necessarily involves an infliction of pain, has been somewhat overlooked, and it has been thought that the end of punishment is the reformation of the person punished. Thus the nature of punishment is erroneously conceived, excluding the exemplary character of punishment, and thus limiting its effect to the persons who have committed the offence, instead of comprehending a much larger number of persons who are deterred from committing it. The reformation of offenders who are suffering their punishment is an object which ought to enter into the design of a penal system; but it is of minor

prisoners as compared with the effect of the punishment in deterring upon good persons from committing similar crimes.

It is likewise a common thought of people not to be inflicted for the purpose of getting rid of offenders, or of taking up those physically incapable of doing their offences. Death has often been inflicted for this purpose, and the death records of various wars have been collected for the same end. The execution of a felon has been recommended on the ground of his getting rid of crime. This view of punishment even in cases similar to that just mentioned would be as it is confined to the person or have merely nominal effect, and offenders were removed to a place where they would be paid and sold out for profit. The principle of getting rid of offenders for the purpose of saving society against the known dangers which the loss of a person, in property applicable in the case of human

A detailed account of the punishments which have been used in different times may be found in different works on antiquities and law books. See, for example, *Warton's English Antiquities*, vol. II. part I. p. 181. *Harri-son's English Antiquities*, p. 170. Dr. Hume's *History of England*, p. 17. See also the ancient Germans and the Greeks generally in the middle ages—*Warton's English Antiquities*, p. 181. *Harri-son's English Antiquities*, p. 170. *Harri-son's English Antiquities*, p. 170. *Harri-son's English Antiquities*, p. 170.

The subject of *Secondary Punishments* is principal of which are in this country transportation and imprisonment. In these modes transportation. We will here make a few remarks on the subject of *Capital Punishments*.

As the question is sometimes raised as to the right of a government to take death as a punishment for crime, we can also state as to the lawfulness of capital punishment. That a government has the power of inflicting capital punishment cannot be doubted, and in order to determine whether that power is rightly exercised, it is neces-

sary to consider whether its infliction is, on the whole, beneficial to the community. The following considerations may serve to determine this question respecting any given class of crime. Death is unquestionably the most formal mode of all punishments, the common sense of mankind and the experience of all ages and countries bear evidence to this remark. Moreover, capital punishment effectively gets rid of the convict. It may be added, as another strong consideration, that death is the simplest of all punishments, and that it effectively solves all the difficult practical questions which arise as to the disposal and treatment of convicted criminals. On the other hand capital punishment from its severity and the respect for its infliction, is likely to become unpopular and hence, from the unwillingness of juries and judges to convict for capital offences, and of governments to carry capital sentences into effect, uncertain. When yet the infliction of capital punishment becomes uncertain, the efficacy ceases, and they ought to be mitigated. An uncertain punishment is not feared, and consequently the pain caused by the actual infliction is wasted. Capital punishments ought therefore to be discontinued only for crimes which would not be effectively prevented by a secondary punishment and for which they are actually inflicted with as much utility as the necessary defects of a judicial procedure will allow.

The writings on the subject of punishment, and particularly of capital punishment, are numerous. Recent opinions on the nature and end of punishment are contained in the works of Beccaria and Bentham, but however well known these, that appeared an enlightened spirit of criticism to the barbarous penal system of the middle ages, but it cannot be read with much profit at the present time. The best systematic work on the subject is Bentham's *Principles of Legislation* edited by Mill. Some valuable remarks on the subject of punishment may likewise be found in the recent writings of Archbishop Whately and others respecting transportation.

PURCHASE, which is corrupted from the Latin word *Perquisitio*, is defined by Littleton (i. 12) to be "the possession of lands or tenements that a man hath by his deed or agreement, unto which possession he cometh not by title of descent from any of his ancestors, or of his cousins (consanguines), but by his own deed." Purchase as thus defined comprehends all the modes of acquiring property in land by deed or agreement, and not by descent, but it is not a complete description of purchase, as now understood, for it omits the mode of acquisition by will or testament, which however, when Littleton wrote, was of comparatively small importance, as the power of devising lands did not then exist, except by the custom of particular places. Blackstone makes the following enumeration of the modes of purchase: Escheat, Occupancy, Prescription, Forfeiture, and Alienation. As to escheat, there is some difficulty in the classification, as the title appears to be partly by descent and partly by purchase, and alienation is here used in a larger sense than that which that term has in the Roman law, in which it does not comprehend acquisition by testament. Generally then, purchase is any mode of acquiring lands or tenements, except by Descent. [DESCENT.]

PURSEER [NAVY.]

PURVEYANCE *purveyance*, a providing, a prerogative formerly enjoyed by the King of England, of purchasing provisions and other necessaries for the use of the royal household, and of employing horses and carriages in his service in preference to all other persons, and without the consent of the owners. The persons who acted for the king in these matters were called purveyors. A privilege of the same nature was also exercised by many of the great lords. The persons whose property was thus seized were entitled to a recompense, but what they received was inadequate, and many abuses were committed under the pretext of purveyance. About forty statutes were passed upon the subject, many of them like all the important early statutes, being a re-enactment of those preceding. Some of the most strict occur in the 36th year of Edward

III. The parliament of that year which is said to have been held "for the honour and pleasure of God, and the amendment of the outrageous practices and oppressions done to the people, and the relief of their estate," after a general confirmation of former statutes immediately proceeds to enact five statutes on the subject of purveyance. The statutes confine the exercise of it to the king and queen, and provided that in the future "the heinous name of purveyor shall be changed into that of buyer" they forbid the use of forced menaces, and direct that where purveyors cannot agree upon the price, appraisement shall be made, &c. The provisions of these statutes were not fully, but they appear to have wholly failed in their operation, and other laws were passed without effect. Several of the charges against Wolsey were in exercise of purveyance on his own behalf (4 Inst. 93.) In the time of Elizabeth two attempts were made in the same year by the Commons to regulate the abuses of purveyance. The queen was extremely indignant at this, and desired the Commons not to interfere with her prerogative. During the first parliament of James I., Bacon, on presenting a petition to the king, delivered a famous speech against purveyors, which formed sort of compendium of the heavy burdens made against them. Several regulations took place in that reign for the purchase of the prerogative of purveyance, but nothing was done. Under the Commonwealth it fell into disuse. Purveyance was not formally abolished till the Restoration. By the 22. Ch. II. c. 24, this branch of the prerogative was surrendered by the king, who received in lieu of it a certain amount payable at exchequer issues. Previous to this earlier period of our history the exercise of purveyance was almost necessary for the support of the royal household, especially during the progress, which were then so frequent. This was almost a necessary distance from the continuance in spite of so many attempts to suppress it. Even after its final abolition by the statute Charles II. several temporary statutes were passed

person to another is promoted not only by filth, want of ventilation, and the other usual accompaniments of squalid poverty, but also by certain atmospheric causes, such as a certain state of heat, moisture, &c., respecting which we are as yet imperfectly informed. The plague therefore is both epidemic and contagious, that is to say, it may either be generated by local causes, which simultaneously affect a large number of the inhabitants of a country, or it may be communicated directly from one person to another. Where a disease is both epidemic and contagious, it is difficult to determine what proportion of the cases of it are due to local causes and what proportion to contagion. The analogy of typhus in this country would lead us to believe that the number of cases of plague in the plague countries produced by contagion is small as compared with the number produced by local causes. The invincible nature of the ordinary causes of plague and other epidemic diseases, and the simultaneous seizure of many persons in the same district, the same street, or the same house, have naturally led to the belief that the disease is in every case communicated from one person to another, according to the fallacy ingeniously exposed by Dr. Radcliffe, who, on being asked his opinion respecting the contagiousness of epidemic diseases, answered "If you and I are exposed to the rain, we shall both be wet, but it does not follow that we shall wet one another."

This view of the ordinary causes of plague is likewise confirmed by the undoubted fact that the poor are the chief sufferers by it, and that it prevails most in the filthiest and worst quarters of towns.

From the fact of the plague prevailing principally among the poor, and rarely attacking the rich, it may be inferred either that the plague is produced exclusively by the filth, crowding, and bad food to which the poor are subject; or that if it be contagious, the contagium does not in general take effect upon the inhabitants of spacious and well ventilated houses, who are clean in their persons, orderly in their habits, and have a sufficient supply of wholesome

food. We see that diseases which appear to be contagious under one set of circumstances, prevail equally in the rich and poor; and that the physical advantages possessed by the latter afford any security against them. Thus, before the introduction of vaccination, small-pox was equally destructive to persons of all ranks in society, and contagious diseases which attack children, as measles and hooping-cough, make no distinction between the children of the rich and the poor.

There seems to us to be no reasonable doubt that the plague is contagious; in other words, that it can be communicated directly from one person to another, provided there be circumstances favourable to its transmission. A quarantine of persons may therefore be expected to be successful in countries where the spread of the disease, supposing it to be introduced, is probable. The duration of this quarantine ought to depend upon the time during which the disease may be communicated from one person to another, in a person who has taken it by contagion or otherwise.

Since the plague is a very malignant and destructive disease, and runs its course with a rapidity greater than typhus, there seems to be ground for concluding that it would not be long latent in the body. The answers to the questions of Malta respecting the plague of 1813, state that "the period during which the disease made its appearance in individual persons after communication was various. It was generally the third to the sixth day, and sometimes longer, even to the fourteenth day, but not later." (Dr. Maclean, *On the Plague and Pestilential Diseases*, vol. II. p. 100.) M. Ségur Dupeyron, the secretary of the Council of Health in France, states in his Report on Quarantine to the Minister of Commerce (May, 1834), that the physicians who have made a study of the plague are pretty generally of opinion that its poison cannot be communicated from one person to another in the human body more than three days; and the cases of plague introduced into the lazarettos confirm this opinion (p. 45). We believe that the plague which have of late years

can even nullify the poison of the plague in susceptible articles. "At Trieste (says M. de Segur Dupeyron), the juice of dried grapes is considered as a purifier, and consequently carcasses in susceptible wrappers are allowed to pass without the wrappers being subjected to any quarantine" (p. 72).

There appears, however, to be conclusive evidence that the clothes and bedding of plague patients have transmitted the plague (Dupeyron, p. 72-71). We believe the danger of its transmission in this manner to be equal to the danger of its transmission by passengers.

We are not aware of any well authenticated example of the transmission of the plague by means of letters. Nevertheless, as paper is considered susceptible, letters coming from and passing through the plague countries, are opened and fumigated at the lazarettoes—a process which is often productive of mistakes, delays, and other inconveniences.

Every ship is furnished by the consul or other sanitary authority at the last port where it touched, with an instrument, styled a bill of health, declaring the state of health in that country. If the ship brings a clean bill of health, the passengers and goods are not subject to any quarantine. If she brings a foul bill, they are subject to quarantines of different durations, according as the plague is known or only suspected to have existed in the country at the ship's departure. On account of the prevalence of plague in the countries upon the Levant, they are considered as permanently in a state of suspicion, and no ship sailing from any of them is considered to bring a clean bill. The periods of quarantine vary from two or three to forty days; the usual periods are from ten to twenty days.

The building in which passengers usually perform their quarantine, and in which goods are depurated, is called a lazaretto. The most spacious and best appointed lazarettoes in the Mediterranean are those at Malta and Marseille.

The institution of quarantine originated at Venice, in which city the expediency of some precautions against

the introduction of the plague suggested by its extensive communications with the Levant. A hospital for persons attacked by the plague was established in an island near in 1473, and the system of isolating passengers and depurating goods applied have been introduced there also. The system thus established in Venice gradually spread to the other countries in the Mediterranean, and been adopted to a greater or less extent over all the civilized world. (See Mann's 'History of Inventions,' and 'Quarantine,' vol. ii. p. 145.)

It is much to be desired that the result of an inquiry by competent medical authority, into the grounds of the quarantine regulations in the Mediterranean, to be conducted under the direction of the chief European powers, has been suggested by M. de Dupeyron, Dr. Bowring, and others, be adopted. It cannot be expected that the causes of plague and the mode of communication will receive aid from the semi-barbarians who inhabit the Mohammedan countries of the Levant. Moreover, quarantine regulations cannot be changed without the consent of different nations who are concerned in their enforcement; reason why it is necessary for a nation to adapt its quarantine regulations received opinions upon the subject, planned in the following extract from a paper respecting quarantine regulations in the Mediterranean, which was in the Malta Government Gazette of the 19th December, 1838. "The quarantine regulations of the Kingdom of Malta in the Mediterranean cannot be altered by the simple will of the English Government without producing consequences far greater than those arising from the existing system. If the English Government should change the quarantine regulations of Malta and its colonies in the Mediterranean, previously obtaining the approbation of the sanitary authorities of the neighboring countries, the practice of those colonies would not be followed elsewhere, and all vessels from any of those colonies would

sequitur quam pro se ipso, "who sues as well for our lord the king as for himself." In a *Qui tam* action part of the penalty goes to the suer or informer, and part to the king. A strange instance occurred in 1844 of the legislature interfering to stop certain *Qui tam* actions against gamblers. [GAMING, p. 58, 59.] See also *INFORMER*.

QUIT RENT. [RENT.]

QUORUM. [SESSIONS.]

R.

RANGER (*Rangeator*), an ancient officer in the king's forests and parks, appointed by patent, and enjoying certain fees, perquisites, and other advantages. His duty was of three kinds: 1, to make daily perambulations, to see, hear, and inquire concerning any wrong doings in the limits of his bailiwick; 2, to recover any of the beasts which had strayed beyond the limits of the forest or chase, and, 3, to present all transgressions at the next forest court.

RANSOM. [AIDS.]

RAPE. [LAW, CRIMINAL.]

RATE, an assessment levied upon property. Rates are of various kinds, and are denominated with reference to the objects to which they are applied.

The nature of Church-rates is explained under *CHURCH-RATES*: and rates for the relief of the poor under *POOR-LAWS*. The subject of County-rates is explained under *COUNTY-RATES*. There are also rates levied for the construction and repair of Sewers; and for other purposes.

READER, READINGS. [BARRISTERS.]

REAL ESTATE. [PROPERTY.]

REBELLION. [SOVEREIGNTY.]

RECEIPT In its more general and popular sense Receipt means a written discharge of a debtor on the payment of money due. When given for sums greater than five pounds, it must be stamped. The amount of the stamp duty varies with the sums for which it is given from 3*d.* to 10*s.*; in Ireland the lowest stamp is 2*d.* and the rates are otherwise

different from those in Great Britain. A receipt, though evidence of payment, is not absolute proof, and this evidence may be rebutted by showing that it has been given under mistake or obtained by fraud. The object of requiring a stamped receipt is to obtain revenue, and no other. It is one of the many modes of taxation. In 1832 the revenue from receipt stamp amounted to 198,066*l.*, namely England 154,406*l.*; Scotland 16,341*l.*, Ireland 22,254*l.* The amount received in England on each kind of stamp was as follows:—

At 0 <i>s.</i> 3	.	£19,940
0 6	.	31,286
1 0	.	42,905
1 6	.	22,466
2 6	.	10,790
4 0	.	6,939
5 0	.	3,408
7 6	.	4,143
10 0	.	4,495

(*Impey's Stamp Act*; 55 Geo. III. c. 184; 3 & 4 Wm. IV. c. 23.)

RECEIVING STOLEN GOODS [LAW, CRIMINAL.]

RECIPROCITY ACT. [SHIP]

RECOGNIZANCE is an obligation recorded, entered into before some court of record, or magistrate duly authorized, by which the party entering into it (the cognizor), whose signature is not necessary, acknowledges (recognizes) that he owes a sum of money to the king, or to some private individual, who is called the cognizee. This sum is named the amount of the recognizance. The acknowledgment is generally followed by an undertaking on the part of the cognizor to do some act, such as to keep the peace, to pay a sum of money, to attend to give evidence, and the like. On the performance of this act the cognizor is discharged from his recognizance. On his default, the recognizance is forfeited, and he becomes indebted absolutely to the amount of the recognizance. A debt on recognizance takes precedence of other debts, and binds the lands of the cognizor from the time of its enrolment. If the recognizance is made to a private individual in the nature of a statute staple, for instance, he may on its forfeiture, by virtue of process directed to the sheriff, obtain delivery of

lands and goods of the singular till
that is satisfied, or payment against
obligation to a action of debt, or by
factum. If the recognizance is made
the king, it was formerly in all cases
the sheriff, extracted into the exchequer,
afterwards removed by process from
the court to the use of the treasury
now, in the case of forfeited recogni-
zances taken before the court of common
pleas or justice of the peace, provision
made by stat. 13 Geo IV c 40, and 4
Geo IV c 17 for their enrolment among
the common records, and their immediate
removal by the sheriff. A list of the
records, as is yearly returned by the
clerk of the peace and town clerks for
the districts respectively, to the lords of
the treasury. A power of appeal by the
prisoners against the forfeiture is given in
seventeenth and the sheriff is not to pay
the cognizance till the appeal has been
decided. Where a recognizance has been
received into the exchequer that court
may discharge or require it according
to the justice of the case. (Conyers,
4p. "Receptancie," Dutton a Black-
stone's Com. Hotten Justice.)
H. 4 CH. 1, CH. 12 c 11. (Conyers,
384 CH. 12 c 11. *Receptancie*, a judge,
created by law as "he whom the
king or other magistrate of any city or
town corporate having jurisdiction of a
court of record, within their jurisdiction by
letter patent, doth nominate unto him
his better direction in matters of law
and proceedings according to law
the Statute 13 Geo IV c 40, appears to
be originally have applied to every
person who was present at a judicial pro-
ceeding and to whose remembrance or
recollection of what had taken place the law
was applied in respect of his personal or
local weight and dignity. Of this we
have a trace in the ordinary writ of
habere et tunc by which the sheriff
is commanded to go to some inferior
court which not being the king's court,
and a court of record, taking with him
his knights, and there to record the
writ which is in that court the re-
membrance of the four knightly recor-
ders of what they saw existing in the
inferior court, in attendance to the king's
will, being treated as equivalent to their

actual presence at the proceedings to be recorded. So if the proceedings are in the sheriff's court, he is ordered by the writ of Recordari facere legatum to cause the plea to be recorded by four knights. And by a record of the eighth year of King John, we find that a judgment of battle in the court of the Archbishop of Canterbury being sought in the king's courts, four knights were sent to inspect the proceedings, who returned "quest recordati sunt" (*Questum est recordati sunt*). The practice of certifying and recording the customs of London by the mouth of the recorder, which is undoubtedly in the charter granting or recognizing the practice, appears to be referable to the same source. Where criminal or civil jurisdiction was exercised by religious or burghers, it would add to the importance of the court if its proceedings took place in the presence of an officer to whom record the superior courts would give credit, either in respect of his personal rank, as a peer or knight, or on account of his connection with those courts, as a servant or barrister at law.

Since 1874 the duties of recorder in cities and boroughs enumerated in the resolution of the Municipal Corporation Act 1874 (43 & 44 Vict. c. 71) have been regulated by the provisions of that and of subsequent statutes.

The insertion of the recorder in place of union importance these items mentioned in the schedule, is taken away. These Acts do not affect the city of London.

The recorder of London is a judge who has criminal and civil jurisdiction. He is also the adviser and the advocate of the corporation. He superintends the duties performed by the recorder in the name of the corporation, in the courts of mayor and aldermen, of common council, and of common hall, his office may be said to be consubstantial. He is by charter a justice of the peace within the city of London, and a justice of may and commonalty, and a justice of the peace, in the hundred of Southwark.

The business of the mayor's court, in which the recorder ordinarily presides alone, comprehends a court of equity. In the mayor's court the recorder sits

civil causes, both according to the ordinary course of common law and the peculiar customs of the city. The amount for which such actions may be brought is unlimited. Causes depending in the superior courts at Westminster for sums under 20*l.*, writs of trial are occasionally ordered to be executed by a judge of a court of record in London under statute 3 & 4 Wm. IV. c. 42, s. 17. Such trials sometimes take place before the recorder, and sometimes before the judges of the sheriff's court.

All the duties of a justice of the peace, including those of chairman, devolve upon the recorder at the quarter and other sessions held at Guildhall for the city of London. At the eight sessions which are held in the year at Justice-hall in the Old Bailey for the metropolitan district, the recorder acts as one of the judges under her majesty's commission of oyer and terminer, and general gaol delivery. At the conclusion of each session he prepares a report of every felon capitally convicted within the metropolitan district, for the information and consideration of the queen in council, and he issues his warrant for the reprieve or the execution of the criminals whose cases have been reported.

The fixed annual salary of the recorder is 1500*l.* The Common Council have added 1000*l.* annually to the salary of the present recorder, and to that of his immediate two predecessors. Besides this, the recorder has fees on all cases and briefs which come to him from the corporation. He is also allowed to continue his private practice.

The recorder is elected by the court of aldermen, most commonly at a special court held for the purpose. Any alderman may put any freeman of the city in nomination as a candidate for the office, but an actual contest seldom takes place. The recorder elect is admitted and sworn in before the court of aldermen. The appointment is during good behaviour. The recorder has always been a sergeant-at-law or a barrister.

The recorder of London deriving his authority from charters, and not being appointed by commission (except temporarily as included with other judges in

the commission of oyer and terminer, at the Old Bailey), he is not, like judges of the superior courts, liable to dismissal by the crown upon an address by both Houses of Parliament. But recorders may be removed for mental or misconduct by a proceeding at common law.

Deputy recorders have in some instances, but not very lately, been appointed by the court of aldermen on nomination of the recorder. (*Report Municipal Corporations*.)

In cities and boroughs within the Municipal Corporations Act, the recorder (who must be a barrister of not less than five years' standing) is a judge appointed under the sign manual by the crown, on recommendation of the aldermen, for ring good behaviour: he has criminal and civil jurisdiction within the city or borough, with precedence next to the mayor.

Criminal jurisdiction is given to recorders by the Municipal Corporations Act, explained by subsequent statute. The 105th section of that Act provides that the recorder shall hold once in every quarter of a year, or at such other more frequent times as he shall, in his discretion think fit, or as the crown may think fit to direct, a court of quarter-session of the peace, at which the recorder shall sit as the sole judge, and such court shall be a court of record, and shall be cognizant of all crimes, offences, and matters whatever cognizable by any court of quarter-session of the peace for counties in England, provided nevertheless that no recorder shall have power to impose or levy any rate in the nature of a poor rate, or to grant licence to keep an ale-house or victualling-house, to sell excisable liquors, or to exercise any of the powers by that Act specially vested in town-councils.

The jurisdiction of the county recorder extends, under 34 Edw. III. c. 1, to trying and determining of all felonies and misdemeanours. The commission under which county justices are appointed, however, directs that if any case of difficulty arise, they shall not proceed to judgment but in the presence of one of the justices of the courts of King's Bench or Common Pleas, or of one of the judges

change in the system of keeping and using the public records.

The greater part of records are kept on rolls written on skins of parchment and vellum, averaging from nine to fourteen inches wide,* and about three feet in length. Two modes of fastening the skins or membranes were employed, that of attaching all the tops of the membranes together backwise, as is employed in the exchequer and courts of common law, whilst that of sewing each membrane consecutively was adopted in the chancery and wardrobe.

The material on which the record is written is generally parchment, which, until the reign of Elizabeth, is extremely clear and well prepared. From that period until the present, the parchment gradually deteriorates, and the worst specimens are furnished in the reigns of George IV. and William IV. The earliest record written on paper, known to the writer, is of the time of Edward II.

The handwriting of the courts, commonly called court-hand, which had reached its perfection about the reign of our second Edward, differs materially from that employed in chartularies and monastic writings. As printing extended, it relaxed into all the opposites of uniformity, clearness, legibility, and beauty which it once possessed. The ink too lost its ancient indelibility, and, like the parchment, both handwriting and ink are the lowest in character in the latest times. With equal care, venerable Homage-day will outlive its degenerate descendants.

All the great series of our records, except those of parliament, are written in Latin, the spelling of which is much abbreviated, and in contractions, there can be little doubt, derived from Latin manuscripts.

During the Commonwealth, English was substituted, but soon after the Restoration, Latin was restored, and the records of the courts continued to be kept in Latin until abolished by Act of Parliament in the reign of George II. In certain branches of the Ex-

chequer, Latin continued in use until the abolition of the offices in very recent times. Many of our statutes from Edward I. to Henry V., and the greater part of the rolls of parliament, are written in Norman French. Petition of parliament continued to be presented in Norman French until the reign of Richard II., whose renunciation of the crown is said to have been read before the estates of the realm at Westminster first in Latin and then in English. After this period we find English, which had doubtless always remained in use among the lower classes, often used in transactions between the people and government.

At the present time, besides the offices for modern records attached to exchequer, we may enumerate the following repositories, with their different localities, as containing the public records.

The Tower, in Thames-street, Charter House, Westminster Abbey, Rolls Chapel, Chancery-lane, Rolls House, Chancery-lane, Duchy of Lancaster, Lancaster-place, Strand, Duchy of Cornwall, Somerset House, Court of Pleas, Carlton Ride and Whitehall-yard, Queen's Remembrancer's Record Office in Carlton Ride and tower of Westminster Hall, Augmentation Office, Palace-yard, Westminster, Pipe-Office, Somerset House; Lord-Treasurer's Remembrancer, Somerset House, Land Revenue, Carlton Ride, Pall Office, Whitehall-yard, Exchequer of Pleas, Whitehall-yard; First-Fruits Office, Temple.

The fullest examination into the state of the public records which has been made in recent times was effected by a Committee of the House of Commons in 1830, conducted by Lord Colchester, then Mr. Abbot, and the report of the Committee presents the most comprehensive account which has yet appeared of our public records, to which a period of forty years has added very little. The Report originated a commission for carrying on the work which its authors began. The Record Commission was renewed six several times between the years 1860 and 1891, and altogether suspended at the accession of the present

* The rolls of the Great Wardrobe varied eighteen inches in width.

System before July, 1840.

Office.	Hours of Attendance.	Charges for			Present System.
		Search.	Inspection of Record.	Copy of Record.	
Tower	10 till 3	10s.	6s. 8d.	1s. per folio	Attendance to full & search in all books, Calendars, &c., is to be a specimen of a folio in 14 copies for per folio. The full may make extracts or 7 or 10 per cent, within the
Rolls Chapel	10 till 3	1s. a year ea. name	2s. 6d. ea. Roll	5s. 6d. a about	
Chapter House	10 till 1	8s. 4d.		1s. per folio	
Carlton Role	10 till 4	3d. a term			
(Common Place)	1s term- time only	2s. 6d. in Index		6d. per folio	
3, Whitehall Yard, Common Place	No attend- ance				
Exch. of Place	No attend- ance	3d. a term		6d. per folio	
King's Bench (Rolls House)	No attend- ance	2s. 6d. in Index			

The best work of general reference as to the subjects to which the public records relate is the 'Report of the Select Committee in 1834.'

RECRUITING is the act of raising men for the military or naval service. As to the military service, recruiting is done by officers appointed for the purpose, who engage men by promises to enter as private soldiers into particular regiments. The officers, commissioned and non-commissioned, while so employed, are said to be on the recruiting service, but the actual engaging of men as recruits is called enlistment. The laws relating to this subject have been already noticed. [ENLISTMENT.]

Formerly private persons were allowed to enlist men for the army in any way that they might think best, but now, by a clause in the Mutiny Act, any person advertising or opening an office for recruits without authority in writing from the adjutant general or the directors of the East India Company is liable to the penalty of twenty pounds.

In order to produce uniformity in the system of recruiting and to ensure the employment of legal means only in ob-

taining men, the supreme control of a branch of the military service was given in the adjutant general of the army, both Great Britain and Ireland were divided into several recruiting districts. To each of these were appointed an inspecting field-officer, an adjutant, with duty it is to ascertain, in respect stature and bodily strength, the fitness any recruit for the service, a paymaster and a surgeon, the latter of whom is a report concerning the health of the recruit. Under the inspecting field-officer there are several regimental officers who are stationed in the principal towns of different recruiting districts to order and superintend the non-commissioned officers appointed to receive the applications of the persons who may be desirous of entering the service.

In order to procure recruits, a city or other non-commissioned officer goes in country places, with the promises their times of recruit or and, with artisans who happen to be employed, or who are dissatisfied with condition, and, by address in representing whatever may seem agreeable to the life of a soldier, or by the allurement

here enumerated, all but the vestments, are preserved in the Jewel-Office in the Tower of London. Before the Reformation in the time of Henry VIII. they were constantly kept by the religious of the abbey of Westminster; and are still presented before the king on the morning of the coronation by the dean and prebendaries of that church.

REGENT, REGENCY. These words, like *rex*, contain the same element as *rego*, "to rule," *regens*, "ruling," and denote the person who exercises the power of a king without being king, and the office of such a person, or the period of time during which he possesses the power. Wherever there has been an hereditary kingly office, it has been found necessary sometimes to appoint a regent. The cases are chiefly those of (1) the crown devolving on a minor too young to execute any of the duties belonging to it; (2) mental incapacity of the person in whom the kingly office is vested, (3) temporary illness, where there is a prospect of the long continuance of the disease, and of incapacity in consequence, (4) absence from the realm. But in the first case the regent has usually been called in England by the name of Protector, the latest instance was the minority of Edward VI., when his uncle, the Duke of Somerset, was the Protector.

In the earlier periods of English history we have several instances of protectors during minorities, and some of regencies during the temporary absence of the king. The occasional absences of George I. and George II. on visits to their continental dominions rendered the appointment of regents a matter of convenience, if not of necessity. Sometimes the power was put, so to speak, in commission, being held by several persons jointly; but Queen Caroline sometimes discharged the functions of regent during the absence of George II. [LORDS JUSTICES.]

This part of the English constitution was, however, so imperfectly defined, that when George III. was incapacitated for discharging the functions of royalty by becoming insane, a question arose, on which the chief constitutional and politi-

cal authorities of the time were in their judgment. The question was—whether the heir apparent, of full age, and the king's eldest son, should become of right regent, or whether the party of the time, led by Mr. Pitt, intended that he did. On the subject it was maintained that it lay with parliament to nominate the person who should be regent. No regent was appointed at that time, because the king recovered. When the king was again incapacitated, all parties were agreed in conferring the title and office of regent on the Prince of Wales, then heir apparent. But it was done by parliament, and certain restrictions upon him were imposed for the first year, but in the event which did happen, of the continued illness of the king, he was to enter into the possession of all the powers of the king, if the king were dead, using only the name of regent, not king.

The time when the Prince of Wales held the office of regent is the longest in the English history which will be mentioned hereafter by the expression "the regency," just as "the regency" is used in French history to denote the minority of Louis the Fifteenth, when the Duke of Orleans was regent. It was during the English regency that the power of Napoleon was broken, and peace was restored to Europe.

REGIMENT, a body of men, whether infantry or cavalry, which is the second subdivision of an army. A union of two or more regimental battalions constitutes a brigade, and more brigades make up a grand division or corps d'armée. A regiment is commanded by a colonel, a lieutenant-colonel, and a major, whose ranks are graduated so as to correspond to those of the general officer commanding the army or division. A regiment is divided into two battalions, each of these battalions, when complete, its own colonel and major.

REGISTER, REGISTRATION, REGISTRY. The mere possession of a document is not sufficient evidence of its authenticity, to it, except in those cases where it can be shown that it has been deposited

(3 & 4 Wm. IV. c. 74 substitutes for them a deed which is enrolled in the Court of Chancery. In Ireland, Scotland, in the Colonies, in most of the United States, in Sweden, France, and Italy, and in many of the German States, registers are established. Nor is it found that the disclosures which a register makes of the state of landholders' property produce inconvenience, nor are such disclosures inseparable from all systems of registration. It is obviously for the public benefit that the apparent extent of a person's landed property should not induce men to give him a credit to which the actual amount of that property does not entitle him.

The commissioners propose to register every document transferring any estate in land or creating a charge upon it, except such as relate to copyholds, and leases for not more than twenty-one years, accompanied by possession. These contracts concerning land with certain limitations, liens upon it, judgments, crown debts, decrees in equity, pending suits, and appeals, should all form matters of registration. They recommend that all deeds should be registered at length: indeed, that the original deeds should be deposited at the Registry, and that (unless in special circumstances) office-copies of them shall be admitted as evidence. They propose that the register should not be classified according to the names of individuals, but that to the registered deed relating to an estate a symbol shall be attached indicative of that estate, under which symbol all subsequent documents affecting it will be entered. The system admits of opening a fresh series of entries, or, in other words, commencing a new title for any portion of the estate which may be separately conveyed, references being made from each to the other. And thus again many separate estates might be united under one symbol. Indexes should be prepared both of the symbols and of persons: and to facilitate reference, England and Wales should be divided into districts, usually corresponding in limits with the counties. Separate indexes should be made to wills, judgments, &c.

It is the opinion of the commissioners that if a register is established, it ought to be taken as sufficient notice of the docu-

ments registered; and that, on the other hand, default of registration ought to be remedied by any person giving notice. With this view they recommend that persons should have the power to register contracts, to enter caveats, to fill up the interval between the execution of a deed and its registration, and to do all which shall prevent owners of estates pending such inhibition from dealing. A bill founded on this report was brought into Parliament (1847), but after a Committee of the House of Commons had been appointed, it was dropped.

The Act 1 & 2 Victoria, c. 13 (relating to arrest on mesne process in certain cases) provides (s. 14) that the judgment of the superior courts of the courts of equity shall be registered, unless a memorandum of such judgment, &c., shall be registered with the master of the Court of Common Pleas, who shall enter it under the name of the person whose estate is to be affected by it. The 2 & 3 Vict. c. 11, c. 11, provides that these registered judgments shall be valid for a longer space than before, but it provides that the entry may be renewed, if also a pending suit (in pendency) shall be entered, or a purchaser or mortgagee who shall be entered, unless a similar memorandum shall be entered by the same officer, and the name of the person whose estate is affected by it, and the entry must be renewed every five years, and, thirdly, the Act provides that crown debtors to be registered in the same office, and provides for maintaining and recording their claims, but the Act does not require renewal every five years of the entries in this case.

(*Second Report of the Commissioners; and the Wills Act, 1837, cited: Tyrell's Suggestions for the Improvement of Real Property.*)

REGISTRATION. The system of documents in Scotland is an important system intimately connected with the titles of real or heritable property, and with the execution of wills. It is thus divided into two distinct parts, which may be easily distinguished.

to dispose of any right connected with it. The origin of this system may be traced back to the commencement of the sixteenth century, when the notaries were required to record their proceedings in their protocols, and the other officers connected with the feudal transference of land were bound to make returns of their official acts. In 1599 an Act was passed in which an effort was made to produce regularity in these registers, by penalties. It was by the Act 1617, c. 16, that the system was founded on its right principle. The preamble of that statute bears "considering the great hurt sustained by his Majesty's lieges by the fraudulent dealing of parties who having unvalued (alienated) their lands, and received great summes of money therefore, yet by their unjust concealing of some private right formerly made by them, render the subsequent alienation done for great summes of money altogether unprofitable, which cannot be avoided unless the said private rights be made public and patent to her Majesty's lieges." The Act then appoints the sales, reversions, &c., to be registered within three-score days after execution, otherwise they are "to make no faith in judgment, by way of action or exception, in prejudice of a third party, who hath acquired a perfect and lawful right to the said lands and heritages. But prejudice alwayes to them to use the said writs against the party maker thereof, his heirs, and successors." By the other clause of the Act the superintendence of the system is given to the Clerk-Register, and the country is divided into Registration Districts. There is one defective provision in this Act, which is still in force. Parties are allowed to register their titles either in the particular register of their district or in the general register at Edinburgh. It is unusual to adopt the latter alternative, and when it is followed, it is generally for the purpose of concealing instead of publishing the transaction. There was another material defect in the old Act. A person might have his title immediately registered, but was liable to have it superseded by any other person able to register a title on a warrant previously obtained. This was remedied by the Act

1693, c. 13, which gave the real titles priority not according to of their execution, but to that registration. To prevent in just accumulation of unregistered in the office, a minute-book was, by temporary Act, appointed to be which the keeper enters an on each document as it is presented. By the present practice, when a other writing belonging to this is presented to the keeper, he in the minute-book the day and presentation. This is indorsed deed itself, and marks the date of registration. When the deed is entered length in the register, a certificate effect is indorsed on the deed, mentioning the pages of the register in which to be found, and the deed is returned. Registration volumes minute-books accompanying them from time to time issued from the General Register house to the registrars, so systematically marked certified, as to prevent them from tampered with without either intimation or mutilation being easily detectable. When a volume is finished returned with the corresponding minute-book to the General Register house keeper of the District Register receive a copy of the minute-book for reference. The real titles of heritable property in Scotland are preserved in a seriatim and in duplicate, in the General Register-house at Edinburgh. When property is for sale or mortgage, a "search" generally forms part of the title for inspection to the purchaser treat it. This is a certificate by the officer, describing all registered encumbrances regarding that particular piece of land which have been registered during forty years. The documents that require to be registered have been much simplified and abbreviated by the act 8 & 9 Vict. c. 35. It has kept in view that the execution of a real title which may be required within the sixty days only of a preferable title. It is not necessary to create a title, and if the receiver of conveyance have an absolute reliance

city of the grantor and all from whom he may have derived his title, may defer completing and registering, and may surrender the title to other persons obtaining a title by the register before his completion of the documents to be deposited to lessen the temptation to a completion and registration, which the enlightened mind would appear to have comprehended the utility of this system, and that an effort to introduce it into England was told by Matthew Manningham. "In the meantime the reform of the law went on but slowly, the interest of the lawyers to the open liberties and estates given nation in their own hands, upon the debate of registering each county, for want of which a certain time fixed after the death when should be void, and registered that land should not be to any incumbrance, this work was so managed by the court it took up three months' time it could be ascertained by the

system for execution is another part of the law of Scotland, the system of warrents in judgment in England is some resembles it. The party to a deed cooperates with it a clause of feoffment, by which, on the deed registered in the books of a court not to put the deed in force, the court could be held on and in terms of the deed, and may proceed against the party default, as if it were the decree of the court. The engagement on which such a deed may issue need be very distinct. Thus, if it be for payment, it must be for a sum in the deed, and not for the debt that may be due. An account out of the transactions to which it refers. The method of carrying by statute (1104, c. 20), made to be full and promissory notes must containing any clause of law. To entitle it to this part the bill or note must be ap-

parently without flaw, must bear the appearance of due negotiation, and must have been protested. The operation of this system was much widened by the Act 1 & 2 Vict. c. 113, which extended registration for execution to the sheriff Courts.

REGISTRATION OF BIRTHS, DEATHS, AND MARRIAGES. Parish registers were not kept in England till after the dissolution of the monasteries. The 14th article of the injunctions issued by Cromwell, Henry the Eighth's secretary, in 1534, directs that every clergyman shall, for every church, keep a book wherein he shall register weekly every marriages, christenings, and deaths, any neglect being made penal. This measure was estimated to be preliminary to a new levy of taxes, and therefore caused much alarm. In the first year of the reign of Edward VI. (1547) proclamations were sent through the different dioceses in order to enforce various injunctions and, among others, that of Cromwell with respect to parish registers. In the beginning of Elizabeth's reign this injunction was repeated, when the clergy were required to make a protestation in which, among other things, they promised to keep the register book in a proper and regular manner. In 1594 an Act (4 & 7 Wm. III. c. 1) for a general registration of marriages, births, and deaths, was passed merely for purposes of revenue; it is entitled "An Act for granting to his Majesty certain rates and duties upon Marriages, Births, and Burials, and uponachelons and widowers, for the term of five years, for carrying on the war against France with vigour." It is a very long Act, in which the rates are minutely set down. A supplementary Act was passed in Wm. III. c. 12, entitled "An Act for preventing Frauds and abuses in the charging, collecting, and paying the duties upon marriages, births, burials,achelons, and widowers." The 22 Geo. III, c. 146. 28 July, 1782, entitled "An Act for the better regulating and preserving parish and other registers of births, baptisms, marriages and burials in England," made some alterations in the law, chiefly with reference to having the books made of parchment or strong paper, and

to their being kept in dry and well-painted iron chests.

The Registration Act (6 & 7 Wm IV. c. 86, 17 Aug., 1836), entitled "An Act for registering Births, Deaths, and Marriages, in England," came into operation July 1, 1837. By the 44th section of the 6 & 7 Wm IV. c. 86, entitled "An Act for Marriages in England," the provisions of this Registration Act are extended to the Marriage Act. *MANHATTAN, p. 522.*

The most important provisions of this Registration Act are the following: A general registry office is to be provided in London, and Westminster (§ 2). Lord Treasurer and Lords Commissioners of his Majesty's Treasury to appoint officers, and fix salaries, to be paid out of the consolidated fund (§ 3 and 4). Regulations for conduct of officers to be framed under direction of the Secretary of State (§ 5). Annual abstract of registers to be laid before Parliament (§ 6). The guardians of the poor of a union or parish, shall, on the 1st of October, 1836, if the board is established at the passing of the Act, or, if not, within three months after its establishment, divide the union or parish into districts as directed by the registrar-general, and appoint registrars and superintendent registrar, if the clerk of the guardians will not or cannot execute that office (§ 7). Literate officers to be provided in each union by the guardians, and to be under the care of the superintendent registrar (§ 8). Temporary registrars and superintendent registrars to be appointed, for parishes not having guardians under the Poor-law Act, by the three lords commissioners, but in case of subsequent unions, previous appointments to be vacated (§ 10 and 11). Deputy registrars may be appointed by the registrars (§ 12). All books are to be transferred on removal of registrar or superintendent, under a penalty of commitment to prison (§ 13). Registrar and deputy to reside in the district, and their names and addresses to be put on the several registers (§ 14). Registrar books to be provided by the registrar-general, for names, entries of all births, deaths, and marriages of his Majesty's subjects in England, according to the forms of

schedules A, B, C, annexed to the Act (§ 17). Registrars authorized and required to inform themselves weekly of every birth and every death which happens within their district after the first day of March, 1837, and to sign and register as soon after the event as conveniently may be done without fee or reward, save as hereinafter mentioned, one of the said books, the part exact required to be registered according to the forms of the said schedules A and B respectively, touching every birth or every such death not already registered (§ 18). After March 1, 1837, parents and occupiers may, within forty-two days after birth and six after death, give notice thereof to registrar, owners and owners must do so forth with in case of foundlings and abandoned bodies (§ 19). Parents and occupiers, on being required by the registrar within forty-two days, must give all particulars required to be registered respecting birth (§ 20). Children born at sea must be registered by the captain (§ 21). After the expiration of forty-two days from the birth of the child, can only be registered within his mother on the solemn declaration of the parent or parents before the superintendent registrar, who is to sign the entry and to certify the same and registrar to certify the same and no registration after forty-two days shall be made otherwise than as above under a penalty of £10 (§ 22). Births not to be registered after six months under a penalty not exceeding £10, and no registration after that date, but in case of § 23. Name given to children may be registered within six months after registration of birth, on production of a certificate by the minister (§ 24). On a person proved to be the father or mother of a child, or occupier of house, required to give particulars of death, on request by registrar, within eight days, registrar to make entry of birth of person upon registrar's request. Entry of persons dying at sea, on request by particulars, to be kept by the registrar (§ 25). Registrar to give certificates of birth to a birth, or death, or marriage, on the same in the manner or otherwise as the registrar may think proper, and which such certificate is to

minutes must give notice to the last the coroner may order buried, and give certificate and if any death duly shall be buried certificate of registry or and for notice given to the within seven days, the party at 10/1, 27. Every register signed by the informant is to be made out accounts given to be verified by the informant and are to be sent by the as directed § 29. Marriage books to be preserved by the coroner for registers § 30. Marriages to be kept in duplicate, the several particulars of each and every entry shall be the clergyman, or the register, or some one of them, and by persons married, and by the coroner. Certified copies of the same and deaths to be sent and the register books when the superintendent registrar Duplicate and certified copies of marriages to be sent to the coroner § 31. Superintending registrar to send certified copies to the several registers to be kept by the persons keeping the same on payment of the fees provided. Index to be made by the superintendent registrar, of the names and certified copies of the same to be kept at the coroner's office, and the same to be given at parental register to be sealed and shall then be without further proof. As may and parties married shall be required to be registered by giving the information as to and it. Penalty for not giving birth, deaths and that for having or neglecting to do so exceeding 100. Penalty for not fulfilling register books within, or giving false or false entries § 32. Accidental errors corrected, within one month, of the parties § 33. Recovering penalties and of

making appeals are provided for by §§ 34 and 35. Registers of baptism and burials may be kept as heretofore § 36. Registers given to persons to be kept in duplicate, as specified and required to be done by parties registering, and which are to be published in convenient places of the unions or parishes § 37.

Another Act was passed 1 Vict. c. 39 June 30, 1837, entitled "An Act to explain and amend two Acts passed in the last session of Parliament, for Marriages, and for registering Births, Deaths, and Marriages, in England." This Act consists chiefly of amendments necessary to extend and improve the provisions of the former Act, and its clauses are not of sufficient interest to the public to require any abstract to be given of them.

Prior to the Registration Act coming into operation it was necessary to divide the country into districts of considerable size for equalizing the labours of the registrars by distributing the areas where the population was dense and calculating it where the population was thin. The Registrar-General issued a circular letter in September, 1836, to the guardians of parishes throughout the country, on whom devolved the duty of forming such parishes and then registering the births, and as the unions differed much from each other in population ranging from 2000 to 10,000, the Registrar-General left the arrangement of the parishes, simply directing them to obtain principles for their guidance. Parishes and townships not under the Poor Law Commission were formed into temporary districts or where more convenient was added to a union already completed or a new one union. In each district a register of births and deaths is appointed, and also a register of marriages, and in each union there is a superintendent registrar. The register of births and deaths is appointed by the guardians, and is always a resident in the district which he acts. The register of marriages is appointed by the superintendent registrar, subject to the approval of the guardians.

The total number of registers of births and deaths at the end of September 2 x 2

ber, 1838, was 2193, of whom 1021 were officers in poor-law unions. At the end of December, 1838, the number of superintendent registrars was 618, of whom 55 were superintendent registrars of temporary districts, at the same period the number of registrars of marriages was 817, of whom 419 were also registrars of births and deaths. In the first year, under the new Act, there were registered in England and Wales—

Births	799,712
Deaths	335,956
Marriages	111,814

Mr. Finlaison, in an estimate of the number of births, deaths, and marriages, which might require to be registered in the first year, calculated the number of births at 550,085, of deaths at 335,968, and of marriages at 114,947. The approximation as to deaths is remarkable, and not less so the deficiency in the births and in some degree in the marriages. The imperfection in the registration of births, which seems to have arisen partly from the opposition of interested persons, partly from the erroneous notions of the ignorant, and partly from mere negligence, has since been in some degree remedied, but is still imperfect.

The registrar-general, in his 6th Report, dated Aug 10, 1844, states that four inspectors had been appointed to visit every district into which England has been divided, in order to examine into the mode in which the registrars perform their duties. These inspectors, among other important directions given to them, are required to see "that the places of birth or death are accurately recorded, that the ages and professions of those who die are duly registered, that exceptions are used to impress upon persons giving information of deaths the importance of producing a certificate of cause of death, in the hand writing of the medical men who attended the deceased in their last illness," &c.

By the end of 1839 about 350 new register-offices had been built, and the use of temporary offices had been discontinued in many places. The ordinance-office supplied iron boxes for holding the register books of each district. By the

end of September, 1838, register books of births and deaths, and forms for certified copies thereof, had been provided by the registrar-general for 2193 registrars of births and deaths, and marriage register books, and forms for certified copies had been supplied to 11,094 clergymen of the established church, to 817 registrars of marriages, to 90 registering officers of the Society of Friends, and to 36 secretaries of Jewish synagogues. They are each required to transmit certified copies on paper having a peculiar water mark as a safeguard against the substitution of false entries, every three months, to the superintendent registrar of each district, who transmits, once a quarter to the registrar-general the certified copies of all the births, deaths, and marriages, which have occurred within the district during the preceding three months. These certified copies, having been deposited in the register-office in London, are there examined and arranged, and alphabetical indexes are then formed and abstracts of them are compiled. In a few years millions of entries will have been made, and yet, for legal or other purposes, it will be as easy to find out the name of any individual from among so great a number as it is to find out a word in a dictionary or a cyclopædia.

The registration for 1839 was

Births	480,520
Deaths	221,067
Marriages	121,083

The improvement in the registration of births, as compared with that for 1838, is sufficiently obvious.

The registration for 1839-40 and 1840-41 is as follows—

	1839-40.	1840-41.
Births	501,589	504,347
Deaths	350,101	355,422
Marriages	124,829	127,482

The number of births not registered still amounts to some thousands annually, and the registrar-general is of opinion that "the registration of births will not be complete until it is enacted by law that the father or mother, or some other qualified informant, shall give notice, within a fixed period, of a birth having taken place."

A parliamentary paper gives the

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due to his wife, because he is the person entitled to receive it, but his release of a debt due to the wife extends only to such debts as are demands at the time of the release. A partner, or other co-debtor, may also release a debt due to him and his co-partners. An executor may, at law, release a debt due to him and his co-executors as such, and one of several administrators has the same power, but such releases are ineffectual in equity, unless they are made in the due discharge of the executor's duty. Though one of several co-plaintiffs may release a cause of action, a court of law will set aside the release if it is a fraudulent transaction.

A release may be set aside in equity on the ground of the fraud, a term which will include every act of commission or omission that renders the transaction unfair, such as misrepresentation or suppression of facts important to be known to the releasor. A plea of a release is an answer to a bill in equity which seeks to set aside the release on the ground of fraud in which, notwithstanding a plea of the release, charges that it was fraudulently obtained, unless the fraud which is charged is put in issue in the plea, and sufficiently denied by answer. The principle of this is fully and clearly stated by Lord Stowell in *Clarke v. Magrell* 2 Ves. and Laf. 780.

A release is generally so expressed as to include all demands up to the day of the date of it. But in this case the day of the date is excluded from the computation. If the release extends to all demands up to the making of the release, this will comprehend all demands up to the delivery of it.

It is usual for releases to contain very general words, which, in their literal signification, may comprehend things that the releasor does not intend to release. But whenever it can be clearly shown in the instance by a particular recital in a deed, that the general words of release were intended to be limited, such limitation must be put on them. Thus, a release of and without prejudice for the purpose of bringing or enlarging the writs of release, but, as in the case of wills, it may be admitted where a dif-

ference arises in applying the words of the instrument to the facts of the case for which purpose the state of the facts at the time of the release must be ascertained by examining evidence.

RELEASE, RELEASEMENT, a release incident to feudal tenure being a sum of money paid to the lord on the admission of a fresh tenant. It is a relic of that state of things in which the custom was not strictly speaking of right but at the will of the lord, who required the payment of such an acknowledgment for the conveyance. It became, however, so much the custom for the lord to admit the son or heir of his tenant, that as we now say, by the influence of the ancestor, that a custom became established of doing so, and out of the custom grew the law of inheritance. The money, however which had been paid in admission in the former state of things, continued to be paid when the admission of the next heir had become what is called matter of right.

Illustrating what is probably the true etymology of the word, "*Release*," *cap. de*," are so called, "*quia de rebus quibusdam sunt per antecessorem decessorem, et solum in manus hereditum, et per ipsos ipsam relevationem.*"

REMAINDER. An estate or remainder is defined by Coke to be "a remnant of an estate in lands or tenements expectant on a particular estate created together with the same at one time." According to this definition it must be an estate in lands or tenements, including incorporeal hereditaments as rents and tithes, and it is an estate which at the time of its creation is not an estate in possession, but an estate the enjoyment of which is deferred. The estate or remainder may exist in lands or hereditaments held for an estate of inheritance or for life. It must be created at the same time with the preceding estate, and by the same instrument, be it writ and a conveyance for this purpose the same instrument. A remainder may be limited by appointment, which is an execution of a power created by the instrument that creates the particular estate, for the instrument of appointment is legally considered as a part of

A remainder is a future interest in real property created by a conveyance. It is a right to possess the land after the termination of a prior estate. It is created by a conveyance which reserves a future interest in the land for a person or persons.

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Remainder for years may be granted to

any person at a future time, but by the rules of the common law no estate of less than a life estate is capable of being granted as a remainder. If therefore a remainder is granted as a freehold estate, it must be created at the same time as the estate for years which it is to follow. The time that the remainder is to follow is the time that the estate for years is to terminate. If a freehold estate is granted as a remainder, it must be created at the same time as the estate for years which it is to follow. The time that the remainder is to follow is the time that the estate for years is to terminate. If a freehold estate is granted as a remainder, it must be created at the same time as the estate for years which it is to follow. The time that the remainder is to follow is the time that the estate for years is to terminate.

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uncertainty may exist, as already observed, in the case of vested remainders.

Fearne has made four classes of contingent remainders, to some one of which he considers that all kinds of contingent remainders may be reduced, but he adds that "several cases which fall literally under one or other of the two last of those four descriptions, are nevertheless ranked among vested estates." The subject of contingent remainders is fully discussed in the elaborate treatise of Fearne, on *Contingent Remainders and Executory Devises*.

RENT is defined by Mr. Ricardo to be "that portion of the produce of the earth which is paid to the landlord for the use of the indestructible powers of the soil. It is often, however (he remarks), confounded with the interest and profit of capital, and in popular language the term is applied to whatever is annually paid by a farmer to his landlord." Mr. Malthus *Prin. of Pol. Econ.* defines rent to be "that portion of the value of the whole produce which remains to the owner of the land, after all the outgoings belonging to its cultivation, of whatever kind, have been paid, including the profits of the capital employed, estimated according to the usual and ordinary rate of the profits of agricultural capital, at the time being."

The chapter on rent, in the 'Wealth of Nations,' though abounding in important facts, contains no distinct enunciation of the nature and causes of rent. Dr. James Anderson in the 'Recreations in Agriculture' (vol. v. p. 401), published in 1801, is acknowledged to have propounded the theory of the origin and progressive increase of rent which is now generally recognised, but his theory excited little attention at the time, and it was not until 1815 that it was more fully and elaborately treated in two works published simultaneously: one of them was an 'Essay on the Application of Capital to Land,' by a Fellow of University College, Oxford. Mr. West, a barrister, afterwards chief justice of Bombay; the other work was by the late Mr. Malthus, and was entitled 'An Inquiry into the Nature and Progress of Rent.' The late Mr. Ricardo had adopted the principles of these two

works several years before they were published, but it was not until 1817 that a pamphlet by him appeared which contained his views on the subject. The publication of his 'Principles of Political Economy and Taxation' followed in the same year. Mr. Mill and Mr. Macleod have more fully adopted the Ricardian theory than any other writers, but Mr. Malthus has dissented from some of its principles, although his views in the main coincide with that theory, and Professor Tucker, of the university of Virginia, dissents from it still more widely than Mr. Malthus. Mr. Senior, while condemning some of Mr. Ricardo's reasonings, appears to have again propounded them under a different form.

The causes of the ordinary excess of the price of raw produce above the cost of production, as enumerated by Mr. Malthus, are—1. That quality of soil, by which it can be made to yield a greater quantity of the necessaries of life than is required for the maintenance of the persons employed on the land. This is the foundation of rent, and the limit to its possible increase. 2. The second quality consists in that property peculiar to the necessaries of life, by which, if properly distributed, they create a demand in proportion to the quantity of necessaries produced. Thus, the effect is to give value to the surplus of necessaries, and also to create a demand for more than can be raised on the richest land. 3. The comparative scarcity of good land, a circumstance which is necessary to separate a portion of the general surplus into the specific form of rent to the landlord. As most modern economists have adopted the main principles of the Ricardo theory, we here give an outline of it, in the words of Mr. Ricardo.

Mr. Ricardo says—"If all land had the same properties, if it were bounded in quantity and uniform in quality, no charge could be made for its use, and where it possessed peculiar advantages of situation. It is then because land is of different qualities with respect to its productive powers, and because, in the progress of population, land of an inferior quality, or less advantageously situated, is called into cultivation, that rent is ev-

land for the use of it. When, in the progress of society, land of the second order of fertility is taken into cultivation, it immediately commences on that of the first quality, and the amount of that it will depend on the difference in the fertility of these two portions of land.

At every step in the progress of population, which shall oblige a country to extend its area of land of a worse quality, the rent of the more fertile land will rise.

If good land existed in a quantity much more abundant than the production of food for an increasing population required, or if capital could be so totally employed without a diminished return on the old land, there could be no rise of rent for rent invariably arises from the employment of an additional quantity of labour with a proportionally less return.

Rent, according to the definition which has been given, consists of a surplus which rent arises after the capital expended in production has been replaced with ordinary profits. This surplus, which constitutes rent, arises, as Mr. Ricardo asserts, from the necessity of employing capital on the old soil with smaller returns. To use the words of Mr. Mill—rent is the difference between the return made to the more productive portions and that which is made to the least productive portion of capital employed upon the soil. In a country containing no every country does contain, land of various degrees of fertility, rent therefore will not be paid until the demands of an increasing population have rendered it necessary to have recourse to the inferior lands. Thus continues Ricardo, suppose three lands, Nos. 1, 2, 3, to yield, with an equal employment of capital and labour, the produce of 100, 90, and 80 quarters of wheat. In a new country, where there is an abundance of fertile land compared with the population, and where therefore it is only necessary to cultivate No. 1, the whole net produce will belong to the cultivator, and will be the profit of the stock which he advances. As soon as population had so far increased as to make it necessary to cultivate No. 2, from

which 20 quarters only can be obtained after supporting the labourers, rent would commence on No. 1 for either there must be two rates of profit on agriculture, or ten quarters, or the value of ten quarters, must be withdrawn from the produce of No. 1 for some other purpose. Whether the proprietor of the land or any other person cultivated No. 1, those ten quarters would equally constitute rent, for the cultivator of No. 2 would get the same result with his capital, whether he cultivated No. 1, paying ten quarters for rent, or continued to cultivate No. 2, paying no rent. In the same manner it might be shown, that when No. 3 is brought into cultivation, the rent of No. 2 must be ten quarters, or the value of ten quarters, whilst the rent of No. 1 would rise to twenty quarters. It often and indeed commonly happens that before Nos. 2 and 3, or the inferior lands, are cultivated, capital can be employed more productively on those lands which are already in cultivation. In such case, capital will be preferably employed on the old land, and will equally create a rent, for rent is always the difference between the produce obtained by the employment of two equal quantities of capital and labour. If with a capital of 1000*l.* a tenant obtain 100 quarters of wheat from his land, and by the employment of a second capital of 1000*l.* he obtain a further return of 85, his landlord would have the power, at the expiration of his lease, of obliging him to pay 15 quarters, or an equivalent value for additional rent, for there cannot be two rates of profit. If he is satisfied with a diminution of 15 quarters in the return for his second 1000*l.* it is because no employment more profitable can be found for it. In this case, as well as in the other, the capital last employed pays no rent. For the greater productive powers of the first 1000*l.*, 15 quarters is paid for rent, for the employment of the second 1000*l.*, no rent whatever is paid. If a third 1000*l.* be employed on the same land, with a return of 75 quarters, rent will then be paid for the second 1000*l.*, and will be equal to the difference between the produce of these two, or 10 quarters; and at the same time the rent

of the first 1000*l.* will rise from 15 to 25 quarters, whilst the last 1000*l.* will pay no rent whatever." Ricardo's *Prin. of Pol. Econ.* 3rd. ed.,

Another incident of rent, it is said, is this:—that it does not form a part of the cost of production. Mr. Macculloch has given the following explanation of this law in Note 1*a* of his edition of the "*Wealth of Nations*." "The price of raw produce," he remarks "does not exceed the cost of production," meaning in that expression the ordinary profits of the producer's capital. "The aggregate price exceeds the aggregate cost of production, but this is because the cost of production is unequal. The price exceeds the lowest, but not the highest cost of production: and the highest cost, since it regulates the price of the whole, may be considered, without impropriety, as the cost of the whole, and the rent to be a peculiar privilege of favoured individuals."

The circumstances which precede or accompany the cultivation of inferior lands, or the employment of additional capital on the old lands are stated to be—1, an increase of population; 2, the accumulation of capital; 3, a rise in the exchangeable value of raw produce. The two first cause a fall in profits and wages, and a rising market price of raw produce is a consequence of more labour or more capital being required to produce it, or of a deficient supply previous to its being produced. In a new country, the whole produce is divided between the capitalists and the labourers, and so long as fertile land is in abundance and may be had for an almost nominal price, nobody will pay a rent to a landlord, and profits and wages are maintained at a high rate. But capital accumulates and wages decrease, and whenever agriculture has reached a state in which the returns of additional capital on the old lands are less than could be obtained from the inferior land, such inferior land will be cultivated, and if the profits of the capital employed on each inferior land were 20 per cent, while the old lands yielded 40 per cent, a rent would arise equivalent to the difference, or 10 per cent. This, as well as any subse-

quent rise of rents, is caused capital being ready to be put on old land, but which cannot be so without diminished returns, or circumstances to which it more fitly takes fresh lands into cultivation of an inferior degree of fertility.

One of Professor Tucker's objections to the Ricardo theory of rent is against the assumption that "of substances are a fixed quantity, instead of its admitting variations that a labourer is ported by one-fifth of the soil acquired for subsistence, and in the Western states of the Union, where a labourer can obtain ten days, or much greater subsistence in a year, and frequently a very high scale of subsistence, and he contrasts it with a country in which the whole year's labour is necessary for subsistence for the year, although it does in comparatively less Atlantic states of the Union, and compared with the Western states, that is also very striking in the character of labour." Professor Tucker contends, "the cause of rent without either an increase or decrease in the returns." The very high rents paid in the West he partly attributes to this, the centre of his objection to Ricardo's theory. Professor Tucker remarks:—"Land is a machine, which but a few of whose produce none can do without, and for which there being more demanders, they must give more of their labour to obtain it, having once begun, it increases with the increase of demand, and the more frugal consumers which it imposes on the latter." Macculloch simply regards the rise in the cost of food by the increase of rents as similar in its effects upon the price of raw produce to an improvement in the soil. Professor Tucker's objections against the Ricardo theory in its ascribing "the proper value of raw produce and of rents to the amount of labour expended

of mankind and the main security against the loss of the whole society being employed in generating more reproduction. "The" *industrial*, "is the source of all power and civilization, and without which, in fact, there would be no science, no naval and military power, no arts, no learning, none of the finer manufactures, none of the refinements and luxuries of foreign commerce, and none of that cultivated and polished society which not only elevates and dignifies individuals, but which exerts its beneficial influence through the whole mass of the people."

In Mr. Millin's *Principles of Political Economy*, the subject of section 7, chap. iii., is "On the causes which may retard the landlord in bettering his lands, to the injury both of himself and the country." Most of the considerations which he brings up are of a practical nature, and relate to rent in agriculture. On this part of the subject the reader may refer to Comstock and Kennedy, "On the Tenancy of Land in Great Britain."

(Ricardo, Millin, Mill, and MacCulloch's *Treatise on the Elements and Principles of Political Economy*, Professor Fisher's *Law of Wages, Profits, and Rent investigated*, Philadelphia, 1837. Professor Jones's *Essay on the Distribution of Wealth and on the Sources of Taxation*.)

RENT (in Law Latin, *redditus*, "a return") is a right to the periodical receipt of money or something valuable in respect of lands or tenements held by him from whom the rent is due. There are three kinds of rent—rent-service, rent-charges, and rent-ack.

There is rent-service when a tenant holds lands of his lord by fealty and certain rent, or by homage fealty, and certain rent, or by other service and certain rent. Rent-service therefore implies tenure, and it may be due to the lord of the manor of which the lands are held, or to some other lord that is, immediate lord of the fee or to the reversioner. The right of distress is an incident to rent-service in arrears, as long as it is due to the same person to whom fealty is due. In order that rent-service may now be created, the person to whom the rent is reserved must have a reversion in the

lands and tenements out of which the rent is to arise, but any reversion will do. Thus a person who has a term of twenty years may grant it for all but one day, and thus will be reversioner, so that a rent-service reserved, with its incidents of the right of distress. If he dies before term, reserving a rent, but without clause of distress in the assize, cannot distress for the rent.

Rent-service therefore which was created since the Statute of Quia Emptores can only be reserved to the person who retains a reversion, and it will be the person who is entitled to the fee. If a man seised in fee simple leases lands for years, reserving the rent-service is descendible with the reversion, though which accrues due to the lessor at death will belong to his personal representatives. A rent-service out of chattels real and of course the personal representatives of the owner. A rent is now most common in leases for years, but it may be reserved on any conveyance which purges an estate, and it may be reserved in the grant of an estate in fee simple, or in a grant of a term of years to commence at a future time.

A rent-service may be reserved to the reversion or reignty, by a person granting the rent and reversion. In this case the lands are held of the grantor, but the rent is reserved, not however as rent-charge, but as rent-ack (*redditus accens*). "for that no distress is made" (Litt. 218.) If the reignty or reversion is granted, the rent-service will be due to the grantor, and the grantee is bound to receive the rent from the tenant. It is therefore that he gives him notice of the rent due, together with all rent that he is due since the grant, and at any time of such notice.

Rent-service can only be reserved to the feoffor, donor, or lessor, or his heirs, upon any feoffment, gift, or conveyance, and if rent is reserved generally, specifying the persons, it will be due to the lessor, and after his death to his heirs who are entitled to the reversion.

the times mentioned in the lease, and till the last minute of which it is payable.

If service is in arrear, the remedy for the recovery of it. (Distress.) By 4 Geo. II. every landlord who by the lease has a right of re-entry on non-payment of rent, may, if a year's rent is due, and there is distress on the premises, distrain to ejectment on his demand of rent, and a recovery of it is final and conclusive, and all costs are paid within a calendar month after the date of the action of ejectment has been brought.

The action may also be brought, if the tenant will pay the rent, or pay into court the amount in arrear, together with the costs, by the common law the lessor may bring an action of debt for rent against the tenant, years or at will, and by the Statute (R. v. 14, § 4) there is an action against a lessee for the continuance of his estate, previously been given for arrear, after the determination of the term. Hen VIII. c. 37. A lessee also have an action of covenant, either by force of the instrument contained in such words as "and paying" rent, or by force of a covenant to pay, which is contained in any lease. If the lessee has a life interest in the term, he, and his heirs so far as they have, are liable under the covenants contained in the reversion, and also become bound by such covenants as run with the land, and frequently lead to an action of covenant.

There is also the remedy by distress or debt for the use of land, which action lies by express agreement for rent.

If the tenant be evicted, he is deemed to have paid the rent, and the lessor's interest, and the rent is also discharged. The lessee may release a part of the rent-service, without releasing the whole.

A rent-charge is a rent granted out of land either at common law or by the Statutes of Uses, with a power of distress for the recovery of the rent. Such rents may be created by the owner of the land who retains the property of it, and they may also be reserved on the alienation of the land. These rents differ from rent-service in not being connected with tenure, and the remedy by distress is therefore not an incident to rent-charges, but is created by the same instrument which creates the rent-charge. If a power of distress is given, the rent is a rent-sock.

Rent-charge may be created either by deed or by will. Sometimes, by the terms of the grant, the grantee of a rent-charge is empowered to enter on the land and satisfy himself for all arrears out of the profits of the land. When a rent-charge is created under the Statute of Uses (§ 4, 5) with a power of distress and entry upon the land in case of arrear, the person to whom the rent-charge is given obtains the legal estate in the rent-charge, with all the remedies for its recovery, as he would by a direct grant of the rent-charge, and the same instrument (lease and release, which creates the rent-charge may also make a settlement of the lands charged with the rent. In this way in a marriage settlement a rent-charge may be provided for the wife's jointure.

An estate in a rent-charge may be either in fee simple, in fee-tail, for lives, or for years, according to the terms of the original limitation. A rent-charge of inheritance is real estate, and descendible to the heir, but a payment that is due belongs to the person representative.

A rent-sock, as already mentioned, is not, like rent-service, accompanied with a right to distress at common law, but by the Stat. 4 Geo. II. c. 28 § 5, this distinction in respect of remedy between rent-service and rent-sock, created since that statute, is abolished, and the act also applies to rent-sock created prior to the statute which had been duly paid for three years out of the last twenty years.

Other rents, though they belong to one of

the three divisions above mentioned, are often distinguished by particular names, thus the rent due from a freeholder is called a chief rent (*redditus capitalis*), the rents of freeholders and knight copyholders of manors are sometimes called rents of assise, being *assise*, or ascertained, and also quit rents (*quieti redditus*), because they are a quitance and discharge of all services.

A fee-farm rent is properly a perpetual rent-service reserved by the crown, or, before the statute of *Quia Emptores* [*FEE-FARM SYSTEM*], by a subject, upon a grant in fee simple. The purchaser of fee-farm rents originally reserved to the crown, but sold under 22 Car. II. c. 6, has the same power of distress that the king had, and so may distress on other land of the tenant not subject to the rent.

REPORTS in law, are relations of the proceedings of courts of law and equity. They contain a statement of the pleadings, the facts, the arguments of counsel, and the judgment of the court in each case reported. The object of them is to establish the law, and prevent conflicting decisions, by preserving and publishing the judgment of the court, and the grounds upon which it decided the question of law arising in the case.

The earliest reports extant are the 'Year-books.' It is said that some few exist in MS. of the reign of Edward I., and a few broken notes are to be found in Fitzherbert's Abridgment. A series of these commentaries, and are now printed, from the reign of Edward II. They were published annually, which explains their name, from the notes of persons, four in number, according to Lord Coke, who were paid a stipend by the crown for the purpose of committing to writing the proceedings of the courts. These early accounts of cases are very short, abrupt, and often confused, especially from the circumstance that it is frequently difficult to ascertain whether a judge or a counsel is speaking. At that time judges were dismissed at the pleasure of the crown, and after their dismissal returned to their previous position of counsel.

The Year-books continue, with occasional interruptions in their series, down to the reign of Henry VIII. The omis-

sion during the time of Richard III. has been attempted to be supplied by a writer who collected and arranged to that period which had been printed by other writers. The Year-books were written in Norman-French, at 36 Edw. III. stat. 1, c. 15, it was enacted that all pleadings should be in high language, and the entries of law in Latin. The Norman-French is believed by some reporters to have been used as late as the eighteenth century.

The first Year-book which appeared in that language was written by Justice Tenterden in 1702; the latter, in French and 1704. The Year-books of later times have more continuity of style and discussion; cases are cited, and the opinion of the court is given at length. About the end of the reign of Henry VII. it is probable that the Year-books were withdrawn. Only five Year-books exist for the ensuing reign, and were published after it. Lord Coke observes, that there is no material difference between the cases reported in the reign of Henry VIII. and those previous to it. The place was shortly afterwards supplied by reports compiled and published by private individuals on their own responsibility, but subject for some time to the inspection and approbation of the judges, whose testimony to the ability of the reporter is often prefixed to the reports. This however soon became a mere form, as appears by the statement of Lord-Keeper North, who speaks highly of the Reports in his time, compared with his favourite Year-books.

During the reign of Henry VIII. his three successors, Dyer, chief-justice of the Common Pleas, notes as a reporter. Henloe and others were also reporters in these reigns. In the time of Elizabeth many lawyers reported the proceedings in the courts, and from the ability with which they acquitted themselves, and the previously unsettled state of the law, the Reports of about this period have acquired a very great authority. Anderson, Leonard, Owen, Coke, and others lived about this time. But the first printed Year-book published by a private hand are those of Edmund Plowden.

o have become insane between judgment and the award of execution. In such case a jury must be sworn to inquire whether he really is insane. If they find that he is, a reprieve must be granted. (*Termes de la Ley*, 498; Hale, *P. C.*; 2 Hawk. *P. C.* book ii. c. 51, § 8, 9; 4 Blackstone, *Com.*)

A reprieve is granted thus:—Before leaving an assize town, a calendar containing the names, offences, and sentences of the prisoners is prepared by the clerk of the assize, and is signed by the judge. If he thinks proper to reprieve any one of them, he writes the word "reprieved" in the margin of the calendar, opposite to the name of the prisoner, as follows:—

"Reprieved.	A. B. for the murder of C. D.	To be hanged."
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If he leaves A. B. for execution, and subsequently reprieves him, he writes to the under-sheriff and the gaoler to say so, and such letter from the judge stays execution.

If the reprieve is sent by the secretary of state, it is under the sign manual of the king.

REPUBLIC is derived immediately from the French *république*, and ultimately from the Latin *res publica*. The Latin expression *res publica* is defined, by Facioliati, to be "*res communis et publica civium una viventium*," and corresponds very closely with the English word *commonwealth*, as used in its largest acceptation for a political society. The Latin word *res publica* might be applied to a community under a substantially monarchical government, thus Augustus is said, in a passage of Capito, a Roman lawyer, to have governed the *res publica* (Gellius, xii. 12); the word, however, was more applicable to a society having a popular government than to a society having a monarchical government; thus Cicero denies that the name of *res publica* can be properly given to a community which is grievously oppressed by the rule of a single man: "*Ergo illam rem populi, id est rem publicam, quis diceret tum, quum crudelitate unius oppressi essent universi; neque esset unum vinculum juris, nec consensus ac societas coetus,*

quod est populus." (*De Rep.* 31.)

So Haemon, in the 'Antigone' of Sophocles (v. 738), says that a state is under the power of one man does not deserve the name of a state.

A *republic*, according to the usage of the word, signifies a political community which is not under monarchical government, or, in other words, political community in which one person does not possess the entire sovereign power. Dr Johnson, in his dictionary, defines a republic to be "a state in which the power is lodged in more than one person." Since a republic is a political community in which several persons share the sovereign power, it comprehends the classes of aristocracies and democracies, the differences between which are explained under ARISTOCRACY and DEMOCRACY.

The word *republic* is sometimes understood to be equivalent to *democracy*, the word *republican* is considered equivalent to *democrat*, but this ordinary sense of the words appears to be inaccurate; for aristocratic communities, as Sparta, Rome in early times, Venice, have always been called republics.

It has been shown in MONARCHY that the governments usually styled "monarchies" are properly aristocracies presided over by a king; and consequently ought to be referred to the class of republics, and not to that of monarchies in which they are commonly placed. We observe, however, that the writers, who know from their personal experience the character of monarchies, strictly so called, sometimes give the name of *republican* to the government of England since 1688, and the government of France since 1830.

A vast deal of error and misconception, leading to important practical consequences has arisen from the confused and indistinct usage of the words *monarchy* and *republic*.

REQUEST. COURTS OF. Called *Courts of Commerce*, or *tribunals*, founded by Act of Parliament to facilitate the recovery of small debts from any inhabitant or trader in the district defined by the Act.

The Acts are made upon the same the most easy method of explanation. The provisions of these courts will be the general provisions of those

of commissioners is appointed. The court is composed of three justices, with a certain number of assessors. To give the power of summary judgment upon the complaint of a debtor upon the complaint of a creditor of taking the evidence of the debtor and his witnesses upon oath, of the value of the amount due, and of the amount of order to the debtor and amount, either in one sum or in instalments. The court has usually jurisdiction of distress for goods, or of summary judgment, if the payment is not obeyed. In the jurisdiction is confined to persons who are inhabitants, and restrictions may be found in the order Acts. But usually it is that the debtor should be an inhabitant of the district, and the creditor should be "seeking his livelihood within the jurisdiction."

In which the jurisdiction of the court extends it usually is, often the debt may arise either by contract, a liability of account, or as a consequence of a larger debt. It is usually a proviso in the contract that a proviso in the larger debt shall not be a defence to bring it within the jurisdiction of the court, although the court may reduce a larger demand to the sum the court can award, provided it is satisfied with the number in discharge of his whole debt.

It usually provides that if a party is brought into the jurisdiction is sued in one of the courts, and the plaintiff recovers, it is only the sum which the court could have awarded, the defendant shall pay full costs to the plaintiff. The Acts also reserve to a landlord the right to distrain for rent, and forbid the courts from interfering with the right to land or to the person of it, or in matters belonging to spiritual courts, or to others. The summary debts are excluded, unless they are debts incurred on the day. The courts have jurisdiction

over persons under age, and can usually grant judgments for wages due to minors. Attorneys are not exempted from the jurisdiction of the court, but they are usually prohibited from practising in it, and they are not liable to payment of costs for suing in superior courts. Most of the Acts contain a clause prohibiting the removal of the proceedings to superior courts.

The 6 & 7 Vict. c. 137, § 4, enables her majesty, with the advice of her privy council among other things to extend the jurisdiction of any court of requests to any district if such court has a judge who is either a barrister at law, or special pleader, or an attorney of one of the superior courts of common law at Westminster, who shall have practised as an attorney for at least ten years. The same section makes provision for the appointment of such a judge.

The first Act for the establishing of a court of requests is the 1 James I. c. 15, which confirms the court which had already been established in London by an act of the common council, at least as early as the reign of Henry VIII, if indeed it had not been established by ancient usage. Todd Pratt's 'Abstract of the Acts of Parliament relating to Courts of Requests,' for a list of the judges which have such courts.

RESIDENCE. [Habitatio.]

RESIGNATION. The word Resignation literally signifies an unmaking or breaking of a seal in order to open a testamentary instrument, as in Horace, *Lib. 1. Ep. vii.*

Officiariusque condidit et aperit testamentum
Adversum heredes et testamentum receptum.

The English word Resignation is the proper term to express the giving up of a benefice which the canonists call *Resignation*. A surrender is the giving up of temporal land into the hands of the lord. A resignation of a benefice must be made to a superior: a parson must resign to his bishop, a bishop to the archbishop, and an archbishop to the king. A devolution is to be resigned to the patron, for a devolution is received immediately from the patron, but a resignation devolves is to be resigned to the ordinary who has appointed and instituted the clerk. The

subject of Resignation Bonds is discussed under BENEFICE, p. 360.

The resignation must be in writing, and contain the proper formal words, of which "resigno," "resign," is one, but not the only one that is necessary. The benefice or ecclesiastical preferment is not vacant until the resignation has been accepted.

The term Resignation is now generally applied to any giving up of an office or place, even to those which are merely honorary, as a seat at a board of directors or at the council of a literary or scientific society. It is usual to accept such resignations formally, though in most cases a man may give up or withdraw from any such place, when he pleases, though he will not thereby alone free himself from any pecuniary demand to which he may in such capacity have made himself liable.

RESIGNATION BONDS. [BENEFICE, p. 352.]

RESPONDENTIA. [BOTTOMRY.]

RESTITUTION.—*Restitution of stolen goods.* By 7 & 8 Geo. IV. c. 29, § 57, if any person guilty of a felony or misdemeanor under that act, in stealing, converting, or receiving any property, shall be indicted for such offence by the owner or his executor, and convicted, the property shall be restored to the owner, and the court before whom the person shall be convicted shall have power to award writs of restitution for the property, or order it to be restored in a summary manner. Provided that if it shall appear that any valuable security shall have been *bona fide* paid or discharged by some person liable to pay it, or being a negotiable instrument shall have been *bona fide* taken or received by transfer or delivery by some person for a valuable consideration, without any reasonable ground to suspect that it had been stolen, &c., then the court shall not order the restitution of such security.

Before this Act, the owner was in all cases entitled to restitution on conviction for a felony, but not for a misdemeanor. During the period between the theft and the conviction, or acquittal or death of the prisoner, the ownership of the property is suspended. (2 Inst., 711; Horwood v.

Smith, 2 T. R., 701.)

REVERSION. is a certain estate for life, for years, or it is called a reversion, possession separated that hath the one, but the same time, for together, there cannot be a reversion, because by the time it is drowned in the reversion, of law when it falleth." (Thus if a man seizes lands to A for life, the reversion is in the grantor, where the owner is a person who has an estate in part only of his estate; and as the grantor has a seignory in a reversion. When his estate to another, the remainder to a reversion left, and the seignory since the time of Quia Emptores. Also who precede the fee, do not hold of the lord of the original owner held. A reversion is often used in a legal signification.

Before the passing of this Act, if a man granted his lands to another for life, he had a reversion in the land. But if he granted his lands to a man for life, he had always a reversion in the land.

If a man grants his lands to another for life, the reversion is in the grantor until the death of the tenant, but it is created under the law by bargain and sale.

possess them. In like manner, one sovereign government is said to have rights against another sovereign government, that is to say, moral rights, derived from the positive morality prevailing between independent nations, which is called *international law*.

We likewise sometimes hear of certain rights, styled natural rights, which are supposed to be anterior to civil government, and to be paramount to it. Hence these supposed natural rights sometimes receive all the additional epithets of indefeasible, indestructible, inalienable, and the like. This theory of natural rights is closely connected with the fiction of a social compact made between persons living in a state of nature; which theory, though recommended by the authority of Locke, has now been abandoned by nearly all political speculators.

RIGHT OF COMMON. [COMMONS, RIGHTS OF.]

RIGHT, PETITION OF. [PETITION OF RIGHT.]

RIGHTS, BILL OF. [BILL OF RIGHTS.]

RIGHTS, DECLARATION. [BILL OF RIGHTS.]

RIOT. A riot is a misdemeanour at common law. The definition of it given by Hawkins, and which appears to have been very generally adopted without much alteration by subsequent writers, is "a tumultuous disturbance of the peace by three persons or more, assembling together of their own authority, with an intent mutually to assist one another against any one who shall oppose them in the execution of some enterprise of a private nature, and afterwards executing the same in a violent and turbulent manner, to the terror of the people, whether the act intended were of itself lawful or unlawful." But if the enterprise is for the purpose of redressing grievances generally throughout the kingdom, or to pull down all inclosures, the offence is not a riot, but amounts to a levying of war against the king, and the parties engaged in it are guilty of high treason.

Violence, if not of actual force, yet in gesture or language, and of such a nature as to cause terror, is a necessary ingre-

dient in the offence of riot. The lawfulness of the enterprise operates no further than as justifying a mitigation of the punishment. It does not in any way alter the legal character of the offence. All parties present at a riot who instigate or encourage the rioters, are themselves also to be considered as principal rioters.

Various Acts of Parliament have been passed for the purpose of giving authority to magistrates and others for the purpose of suppressing riots, and restraining, arresting, and punishing rioters. These are collected and commented upon by Hawkins (1 P. C., b. 1, c. 65) and Burn (5 vol., 'Riot, &c.). The most important is 1 Geo. I., c. 1, c. 5, commonly called the Riot Act. By that statute it is provided that "if any persons to the number of twelve or more, being unlawfully, riotously, and tumultuously assembled together to the disturbance of the public peace, shall continue so assembled for the space of an hour after a magistrate has commanded them by proclamation to disperse, they shall be considered felons."

The form of proclamation is given in the Act, and is as follows. —

"Our sovereign lady the queen chargeth and commandeth all persons being assembled, immediately to disperse themselves, and peaceably to depart to their habitations or to their lawful businesses, upon the pains contained in the Act made in the first year of King George, for preventing tumults and riotous assemblies.

"God save the Queen."

This is directed to be read with a loud voice and as near as possible to the rioters, no word must be omitted. Persons who do not disperse within the hour may be seized and apprehended by any magistrate or peace-officer, or any private person who has been commanded by a magistrate or officer to assist. In case of resistance, those who are attempting to disperse or apprehend the rioters will be justified in wounding or killing them. It is felony also to oppose the reading of the proclamation, and if the reading should be prevented, those who do not disperse are still guilty of felony.

know that the reading of the provision has been prevented.

Section under this Act must be read within a year after the riot has been committed. By the 7th of 13 & 14, rioters who do or begin to demolish a church or a dwelling house, or any other of these buildings or machinery therein that Act, are to be considered rioters. By 7 & 8 Geo. IV, c. 21, a remedy is made for remedies against the rioters in case of damage done by

that Act compensation may be made by action against the hundred or by writ of mandamus or otherwise, contained in them, to the effect that where the damage done is not to be repaired, compensation may be made of the claimant, or other writ before justices at a petty sessions, authorized to make an order for the payment of damages and costs. An order of the hundred is made a compensation for the defendants. In cases in either of these provisions it is necessary to show that a riot has been committed, and in case the Act has not been demolished, that the rioters had begun to do so. That is, that their intent was such, although from some reason it has not been carried into effect. Hence this intent is proved, it is not vitiated by compensation, great damage may have been done if the intent did exist in any of the rioters, compensation is available, however slight the damage.

If the rioters have been injured in their proceedings, it will be for the jury, as it will be for the judge, whether, without such interference, a demand would have been made.

But if the rioters have voluntarily refused to accept a demand, it, though distinct, that in any other circumstances, appears to be directed towards some object, as for instance to compel the abatement, &c., the parties will have no remedy under the Act. It appears that there was no intent to do so.

The action must be commenced within three months after the commission of the offence, and to entitle the party injured to bring an action, he if he had knowledge of the circumstances, or the party in charge of the property, must, within seven days after the injury done, go before a magistrate and give on oath all the information relative to the matter which he possesses, and also be bound over to prosecute the offenders.

With respect to unlawful assemblies of a seditious character, various provisions are enacted by 11 Geo. III, c. 79 and 52 Geo. III, c. 10, and in reference to those for training to the use of arms, by 10 Geo. III, c. 1. See also

Hawkins, P. C. 1st P. C., Burn's Justice, vol. 5, Chas. Acc., Russell, 4th Edition, Law, Criminal, p. 182.

RIOT ACT, 1801

RIVER. In a legal sense rivers are divisible into fresh and salt water rivers. Salt water rivers are those rivers or parts of rivers in which the tide ebbs and flows. Rivers are also divisible into public or navigable rivers and private rivers.

The property in fresh water rivers, whether public or private, is presumed to belong to the owners of the adjacent land, the owner on each side being entitled to the soil of the river and the right of fishing as far as the middle of the stream. But this presumption may be rebutted by evidence of special usage to the contrary. For instance, it may be shown that the river belongs to one person, and the adjacent land to another, or that one party owns the river and the soil of it, and another the fish or several fishery of the river. If a fresh water river between the lands of two owners runs in one side by means of a ditch or cut, each owner continues to retain half the river, and the boundary addition by alluvion belongs to the land to which it attaches itself, unless the lands of the proprietors on each side have been marked off by other known boundaries, such as stakes in the river. This part of the law as to the acquisition by alluvion, is stated by Bracton in the chapter 'De acquiriturda reman damno' &c., and his statement leads in substance and explanation is taken from the Digest (41, 42, 43).

s. 7), with which Gaius may be compared (ii. 70). But if the course of the river is changed suddenly and sensibly, then the boundaries of the lands will be, as they were before, in the midst of the deserted channel of the river. Though fresh-water rivers are presumed to be the property of adjacent landowners, yet such owner cannot set up a ferry and demand a toll unless by prescription or by charter from the king.

In those rivers which are navigable, and in which the public have a common right to a passage, the king is said to have "an interest in jurisdiction," and this is so not only in those parts of them which are the king's property, but also where they are become private property, such rivers are called "*fluvii regales*," "*haut streames le roy*," "royal rivers;" not as indicating the property of the king in the river, but because of their being dedicated to the public use, and all things of public safety and convenience being under his care and protection. Thus a common highway on land is called the king's highway, and navigable rivers are in like manner the king's highway by water. Many of the incidents belonging to a highway on land attach to such rivers. Accordingly any nuisances or obstructions upon them may be indicted even though the nuisances be in the private soil of any person, or the nuisances and obstructions may be abated by individuals without process of law. But all the incidents of a land highway do not attach to such rivers. Thus, if the highway of the river is obstructed, a passenger will not be justified, as he would be in the case of a land highway, in passing over the adjacent land. Though a river is a public navigable river, there is not therefore any right at common law for parties to use the banks of it as a towing-path. (Ball v. Herbert, 3 T R, 253.)

If a river which is private in use as well as in property be made navigable by the owner, it does not therefore become a public river unless from some act it may be presumed that he has dedicated it to the public. The taking of toll is such an act. *Collis* says that the soil of the sea and of royal rivers belongs to the king. But the expression, if intended to apply

to all parts of the rivers where the public have a right of passage, appears too comprehensive.

But there is no doubt that in some rivers the property may be in the crown, as it was in the river Thames, the property in which, both as to the water and the soil, was conveyed by charter to the lord mayor and citizens of London. In all rivers as far as the tide flows, the property of the soil is in the king, and no other claims it by prescription. In navigable rivers where the tide flows, the liberty of fishery is common to all persons. (Hale, *De Maris et Brachiorum ejusdem*; *De Severa*.)

The mere running water belongs to no one; but the proprietor of adjoining land is entitled to the reasonable use of it which runs by his land. "And consequently the proprietor can have the right to use the water to the prejudice of any other proprietor. Without the consent of the proprietors who may be affected by his operations, no proprietor can either diminish the quantity of water which otherwise descend to the proprietor below, or throw the water back upon the proprietors above. Every proprietor claims a right either to throw the water back above, or to diminish the quantity of water which is to descend below, in order to maintain his claim, and to prove an actual grant or licence from the proprietors affected by his operations must prove an uninterrupted enjoyment of twenty years."

Judgment of Sir J. Leach in Howard v. Sim and Stuart, 109; *On Easements*.

ROAD. [WAY.]

ROBES, MASTER OF THE, the officer of the household who has the custody of the king's robes. By statute Henry III., the "*Gardien de la Robe de Roi*," the warden of the wardrobe, was to make account yearly in the Exchequer, on the feast of Margaret. Under a queen, the designation of the office is changed to that of a mistress of the robes. The office has always been one of dignity. High privileges were conferred upon it by Henry VI., and others by King James

quently extended by the Edicts of the Prætors. The brevity and obscurity of this ancient legislation rendered interpretation necessary in order to give the laws any application, and both the interpretation of the laws and the framing of the proper forms of action belonged to the College of Pontiffs. The civil law was thus still inseparably connected with that of religion (*Jus Pontificum*), and its interpretation and the knowledge of the forms of procedure were still the exclusive possession of the patricians.

The scanty fragments of the Twelve Tables hardly enable us to form a judgment of their character or a proper estimate of the commendation bestowed on them by Cicero (*De Or.*, i. 44.). It seems to have been the object of the compilers to make a complete set of rules both as to religious and civil matters; and they did not confine themselves to what the Romans called private law, but they comprised also public law ("*Jus publici privatique juris*," Liv., iii. 34.). They contained provisions as to testaments, successions to intestates, the care of persons of unsound mind, theft, homicide, interments, &c.

They also comprised enactments which affected a man's status, as for instance the law contained in one of the two last Tables, which did not allow to a marriage contracted between a patrician and a plebeian the character of a legal Roman marriage, or, in other words, declared that between patricians and plebeians there could be no *Connubium*. Though great changes were made in the *Jus Publicum* by the various enactments which gave to the plebeians the same rights as the patricians, and by those which concerned public administration, the fundamental principles of the *Jus Privatum*, which were contained in the Tables, remained unchanged, and are referred to by jurists as late as the time of Ulpian.

The old *Leges Regiæ*, which were collected into one body by Papirius, were commented on by Cæcilius Javolenus in the time of Julius Cæsar (*Dig.*, i. tit. 16, s. 144.), and thus they were probably preserved. The fragments of these laws have been often collected, but the best way upon them is by Dirksen, *Ver-*

suchen zur Kritik und Analyse der Quellen des Römischen Rechts, 1823. The fragments of the Tables also have been often collected; best works on the subject are James Godefroy (*Jac. Godefroy*), the more recent work of Dirksen, *nicht der bisherigen Versuche zur Herstellung des Textes der XII. Tafel Fragmente*, Leipzig, 1824.

For about one hundred years after the Legislation of the Decemviri, the patricians retained their exclusive possession of the forms of procedure. Appian Cævius drew up a book of the forms of actions, which it is said that Cnæus Flavius stole and published; the fact of the theft may be doubted, but that of the publication of the forms of procedure, and of a list of the *Idus* and *Nefasti*, rests on sufficient authority. The book thus made public by Flavius was called *Jus Civile Flavium*; like that of Papirius it was only a compilation. The publication of the book must have had a great effect on the practice of the law: it was in reality a precedent to an extension of the privileges of the plebeians. Subsequently Sextus Aelius published another work, called *Actianum*, which was more extensive than that of Flavius. This work was extant in the time of Pomponius (*Dig.*, i. tit. 2, s. 2, § 39), was called "*Tripartitum*," from the circumstances containing the laws of the Twelve Tables, a commentary upon them (*Quæstio*), and the *Leges Actianæ*. The work of Aelius appears to have been considered in later times as one of the sources of the civil law (*veluti juris*), and he received from his contemporary Papius the name of "*vir*

* *Egregio cordatus honestus Aelius*.

Sextus Aelius was Cæsar's Agent, 200, and Consul, n. c. 198.

In the Republican period no laws were enacted both in the Centuriata and in the Comitia. The *Leges Curiatæ*, which were passed by the curiæ, were limited to the abrogation and the conferring of *perpetuum*. The Comitia Centuriata made independent of the Curiæ.

Jus Civile Romanorum in its limited sense. (*Dig.*, i, tit. 1, s. 7.) The nature of the Roman Edictal Law is explained at the end of the article *Equity*.

With the establishment of the Imperial Constitution begins a new epoch in the Roman law. The leges of Augustus and those of his predecessor had some influence on the *Jus Privatum*, though they did not affect the fundamental principles of the Roman law. A *Lex Julia* came into operation, B.C. 13, but it is better known as the *Lex Julia et Papia Poppaea*, owing to the circumstance of another lex of the same import, but less severe in its provisions, being passed as a kind of supplement to it in the consulship of M. Papirius Mutilus and Q. Poppaeus Secundus, A.D. 9. This law had for its object the encouragement of marriage, but it contained a great variety of provisions. A *Lex Julia de Adulteriis*, which also contained a chapter on the *dos*, is of uncertain date, but was probably passed before the former *Lex Julia* came into operation. Several *Leges Juliae Judicariae* are also mentioned, which related both to *Judicia Publica* and *Privata*, and some of which may probably belong to the time of the dictator Caesar.

The development of the Roman law in the Imperial period was little affected by direct legislation. New laws were made by *Senatus Consulta*, and subsequently by the *Constitutiones Principum*; but that which gives to this period its striking characteristic is the effect produced by the *Responsa* and the writings of the Roman jurists.

So long as the law of religion or the *Jus Pontificium* was blended with the *Jus Civile* in its limited sense, and the knowledge of both was confined to the patricians, jurisprudence was not a profession. But with the gradual separation of the *Jus Civile* and *Pontificium*, which was partly owing to the political changes by which the estate of the plebeians was put on a level with that of the patricians, there arose a class of persons who are designated as *Jurisperiti*, *Jurisconsulti*, *Prudentes*, and by other equivalent names. Of these juriconsulti the earliest on record is Tiberius Coruncanius, a plebeian *Pontifex Maximus*, and consul B.C. 280:

he is said to have been the first who professed to expound the law to any person who wanted his assistance; he left no writings, but many of his *Responsa* were recorded. Tiberius Coruncanius had a long series of successors who cultivated the law, and whose *responsa* and writings were acknowledged and received as a part of the *Jus Civile*. The opinions of the juriconsulti, whether given upon questions referred to them at their own houses, or with reference to matters of litigation, were accepted as the safest rule by which a *judex* or an *arbitrator* could be guided. Accordingly, the mode of proceeding, as it is described by Pomponius, is perfectly simple; the *judices* in difficult cases took the opinion of the juriconsulti who gave it either orally or in writing. Augustus, it is said, gave the *responsa* of the jurists a different character. Before his time, their *responsa*, as such, could have no binding force, and they only indirectly obtained the character of law by being adopted by those who were empowered to pronounce a sentence. Augustus gave to certain jurists the *respondendi jus*, and declared that they should give their *responsa* "ex eius auctoritate." In the time of Gaius (i. 7) the *Responsa Prudentum* had become a recognized source of law, but he observes that the *responsa* of those only were to be considered who had received permission to make law (*jura condere*), and he adds that if they all agreed, their opinion was to be considered as law; if they disagreed, the *judex* might follow which opinion he pleased. The matter is thus left in some obscurity, and, for want of more precise information, we can only conjecture what was the precise way in which these licensed jurists under the empire were empowered to declare the law. It is however clear, both from the nature of the case and the statement of Gaius, that their functions were limited to exposition or to the declaration of what was law in a given case, and that they had no power to make new rules of law as such; whether the licensed jurists must have formed a body or college, for otherwise it is impossible to conceive how the opinions of the majority could be ascertained on any given occasion.

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pillars of Justinian's code were greatly aided by that of his Imperial predecessor. The valuable edition of the Theodosian Code, by J. Gothofredus (6 vols. fol., Lugd., 1665), re-edited by Ritter, Leipzig, 1736-1745, contains the first five books and the beginning of the sixth, only as they are epitomized in the Breviarium, and this is also the case with the edition of the 'Jus Civile Antejustinianum,' published at Berlin in 1815. But recent discoveries have greatly contributed to improve the first five books. The most recent edition of the 'Jus Civile Antejustinianum' is that of Bonn, 1835 and 1837.

The legislation of Justinian is treated of under JUSTINIAN'S LEGISLATION.

There are numerous works on the history of the Roman law, but it will be sufficient to mention a few of the more recent, as they contain references to all the earlier works. *Lehrbuch der Geschichte des Römischen Rechts*, by Hugo, of which there are numerous editions, *Geschichte des Römischen Privatrechts*, by Zimmern, *Geschichte des Römischen Rechts*, by F. Walter, 1840; and for the later history of the Roman law, *Geschichte des Römischen Rechts im Mittelalter*, by Savigny.

ROUNDHEADS, a name given to the republicans in England, at the end of the reign of Charles I. and during the Commonwealth. The name seems to have been first applied to the Puritans because they wore their hair cut close, but to have been afterwards extended to the whole republican party. The Cavaliers, or royal party, wore their hair in long ringlets.

ROYALTY. The French words *roi* and *royal* correspond to the Latin words *rex* and *regalis*, and from *royal* has been formed *royauté* (now *royauté*) whence has been borrowed the English word *royalty*. The corresponding Latin word is *regalitas*, which occurs in the Latin of the middle ages. (Ducange, *in v.*)

Royalty properly denotes the condition or status of a person of royal rank, such as a king or queen, or reigning prince or duke, or any of their kindred. The possession of the royal status or condition does not indicate that the pos-

essor of it is invested with any state political powers, and *royalty* is not equivalent to *monarchy* or *sovereignty*. A royal person is not necessarily a monarch, or, in other words, does not necessarily possess the sovereign power. The powers of persons of royal dignity are very different in different places, and have varied from the performance of some merely honorific functions to the exercise of the entire sovereignty. [KING, SOVEREIGNTY.]

In popular discourse *royalty* is equivalent to *monarchy* or *sovereignty*, and a king is called monarch, though he reigns without any reference to whether he possesses the entire power or only a portion of it. The principal causes of this confusion are stated in MONARCHY. The word is attended with important consequences both in speculative and practical law.

RUBRIC (from the Latin *rubra*, a kind of red earth or stone), a name given to the titles of chapters in certain law-books and more especially to the rules and directions laid down in the Liturgy for regulating the order of service. These, in both instances, whether formerly written or printed, are marked by red characters, and have received the name, though now printed in black ink. In the Latin language rubrica has several meanings. It signifies a heading or the things which are contained in a law or in an edict. Thus the interdict called *Unde vi* from the word, and *Unde vi* was across the rubrica or heading under which the edict would be found (*Dig. 4. 1. 1*).

RULE (in Law), is an order or decree of the three superior courts of Law. Rules are either general or particular.

General rules are such orders or decrees to matters of practice as are made and promulgated by the court, and are a declaration of what the court do, or require to be done, in cases falling within the terms of the order. The power of issuing rules for the practice of each court is vested in the jurisdiction of the court.

the offender of the privilege of sanctuary.

The present state of the law of sacrilege depends on the statute 7 & 8 Geo. IV. c. 29, s. 10, which enacts that "if any person shall break and enter any church or chapel, and steal therein any chattel, or having stolen any chattel in any church or chapel, shall break out of the same, every such offender, being convicted thereof, shall suffer death as a felon."

By 9 Geo. IV. c. 55, s. 10, the same protection was extended to meeting-houses and all places of divine worship.

By statute 5 & 6 Wm. IV. c. 81, the punishment of death was abolished, and transportation for life or for any term not less than seven years, or imprisonment with or without hard labour for any term not exceeding four years, was substituted in its place. These penalties were again altered by 9 Wm. IV. c. 4, which limited the term of imprisonment to three years, and gave to the court a discretionary power of awarding any period of solitary confinement during such term. But now, by the statute 7 Wm. IV. and 1 Vict. c. 90, s. 5, no offender may be kept in solitary confinement for more than one month at a time, or three months in the space of one year.

The Roman sacrilegium was defined to be the "stealing of sacred things" (*sacrarium rerum furum*), that is, the robbing temples or stealing things from them which had been appropriated to the purposes of religion. It was not unusual for persons to deposit their money in temples for safe keeping; and it was a doubtful question whether the stealing of such money was sacrilege. A rescript of Septimius Severus and Caracalla determined that the taking of a private person's money from a temple was only theft. *Dion.* xlviii. tit. 12, s. 5. In the Republican period sacrilegium had also the wider meaning of any offence against religion, a principle which was more fully developed in the Imperial period. The *Lex Julia de Pecunia*, which was the embezzlement of public property, placed sacrilegium on the same footing with *Pecunias* as to the penalties.

(*Rein, Criminalrecht der Römer*, p. 601).

SAILORS. [SEAF.]

SALVAGE. [SHIP.]

SANCTION. [LAW, p. 173.]

SANCTUARY, a consecrated place which gave protection to a criminal who sought refuge there. The word signifies the privilege of sanctuary, which was granted by the king for the preservation of the life of an offender. Under the dominion of the Normans there appeared to have existed two kinds of sanctuary, one general, which belonged to all churches, and another peculiar, which was granted in a grant by charter to a king. The general sanctuary afforded refuge to those only who had been convicted of capital felonies. On reaching the place of refuge the felon was bound to declare that he had committed felony, and came to receive his life. [ABJURATION OF THE FELON.]

A peculiar sanctuary might, if such a privilege was granted by the charter, be a place of refuge even for those who committed high or petty treason, and a party escaping thither might, if he remained undisturbed for life, be allowed to remain undisturbed for life. He, however, had the option to take the oath of abjuration and quit the realm. Sanctuary seems in neither case to have been allowed as a protection to those who escaped from the sheriff after being delivered to him for execution. In the latter part of the reign of Henry VIII., at the time when the religious houses were dissolved, several statutes were passed (24 Hen. VIII. c. 12; Hen. VIII. c. 19, s. 1; Hen. VI. c. 12), which regulated, limited, and finally abolished the privilege of sanctuary both as regarded the number and places possessing the privilege. By 21 James I. c. 24, s. 7, it was enacted that no sanctuary or privilege of sanctuary should thereafter be allowed in any case. **AMERICAN TRUCKEERS.** [AMERICAN.]

Reeve's *History of the English Army*, Comyn's *Digest*, tit. "Abjuration," Blackstone, *Com.*

SAPPERS AND MINERS, the non-commissioned officers and privates of the corps of Royal Engineers. They are employed in building, repairing, and demolishing fortifications, and in the construction and maintenance of

Savings,' and to this fund the trustees were bound to transmit the amount of all deposits that might be made with them when the sum amounted to 50*l.* or more. For the amount so invested the trustees received a debenture, carrying interest at the rate of threepence per centum per diem, or 4*l.* 11*s.* 3*d.* per centum per annum, payable half-yearly. The rate of interest then usually allowed to depositors was four per cent. In Ireland the depositors were restricted to the investment of 50*l.* in each year, and in England the same restriction was imposed, with a relaxation in favour of the first year of a person's depositing, when 100*l.* might be received. No further restriction was at this time thought necessary as to the amount invested, neither was the depositor prevented from investing simultaneously in as many different savings' banks as he might think proper. This circumstance was found liable to abuse, and an Act was passed in 1824, which restricted the deposits to 50*l.* in the first year of the account being opened, and 30*l.* in each subsequent year, and when the whole should amount to 200*l.* exclusive of interest, no further interest was to be allowed. Subscribers to one savings' bank were likewise not allowed to make deposits in any other, but the whole money deposited might be drawn from one savings' bank in order to be placed in another.

In 1828 a further Act was passed, entitled 'An Act to consolidate and amend the laws relating to Savings' Banks,' and it is under the provisions of this Act (9 Geo. IV. c. 92), and of 7 & 8 Vict. c. 83, that all savings' banks are at present conducted. It is provided by the 7 & 8 Vict. c. 83, s. 19, that two written or printed copies of all rules or alterations of rules of savings' banks, signed by two trustees, shall be submitted to the barrister appointed under 9 Geo. IV. c. 92, for his certificate, and the said barrister must return one of such copies when certified to the trustees and transmit the other to the commissioners for the reduction of the national debt. This provision stands in place of the provision in 9 Geo. IV. c. 92, which required that a transcript of the rules of a savings' bank or government annuity society should be deposited

with or filed by the clerk of the peace and a certificate thereof returned to the institution, and that such transcript should be laid before the justices at sessions.

The money deposited in savings' banks must be invested in the Bank of England or of Ireland, in the names of the commissioners for the reduction of the national debt. The receipts given to the trustees of savings' banks for money thus invested bear interest at the rate of 3*l.* 5*s.* per cent, and the interest paid to depositors must not exceed 3*l.* 0*s.* 10*d.* percent. per annum, the difference being retained by the trustees to defray the expenses of the bank. Trustees are not allowed to receive deposits from any individuals whose previous deposits have amounted to 150*l.*, or when the balance due to any one depositor amounts with interest to 200*l.*, no further interest is to be allowed, and not more than 30*l.* can be deposited by one person in any one year. Trustees or treasurers of any charitable provident institution, or of any charitable donation or bequest for maintenance, education, or benefit of the poor, may invest sums not exceeding 10*l.* per annum, and not exceeding 300*l.*, principal and interest included. Friendly societies whose rules have been certified pursuant to acts of parliament relating thereto, may deposit the whole or a part of their fund.

The increase of savings' banks has been great beyond all expectation. On the 20th of November, 1833, there were 484 savings' banks in England holding balances belonging to 414,014 depositors, which amounted to 13,973,243*l.*, being an average 34*l.* for each depositor. There were at the same time in Wales 23 savings' banks, having balances amounting to 361,150*l.* belonging to 11,269 depositors, being an average of 32*l.* for each depositor; while in Ireland there were 48 savings' banks, with funds amounting to 1,380,718*l.*, deposited by 49,872 persons, the average amount of whose deposits was 28*l.* The total for England, Wales, and Ireland was consequently 484 savings' banks, with funds amounting to 15,715,111*l.*; the number of accounts open was 475,155, and the average amount of deposits was consequently 33*l.* On the 20th of November 1823, there were

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Summary of the 577 Savings Banks in ENGLAND, SCOTLAND, WALES, and IRELAND, on the 20th Nov., 1844.

SAVINGS' BANKS.

[458]

SAVINGS' BANKS.

ENGLAND.				SCOTLAND.				WALES.				IRELAND.				TOTAL.			
Number of Depositors.	Amount of Invested monies.	Average Amount invested by each Depositor.	Number of Depositors.	Amount of Investments.	Average Amount invested by each Depositor.	Number of Depositors.	Amount of Investments.	Average Amount invested by each Depositor.	Number of Depositors.	Amount of Investments.	Average Amount invested by each Depositor.	Number of Depositors.	Amount of Investments.	Average Amount invested by each Depositor.	Number of Depositors.	Amount of Investments.	Average Amount invested by each Depositor.		
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9,789	511,073	52	630	28,880	45	305	12,063	39	477	41,233	60	11,201	593,240	52	10,203	1,272,046	124		
8,900	1,132,421	127	403	46,154	119	476	69,885	143	422	22,036	59	10,203	1,272,046	124	10,203	1,272,046	124		
822,290	23,112,845	30	69,224	1,042,183	14	19,690	599,796	32	91,213	2,749,077	30	1,012,047	29,501,861	29	1,012,047	29,501,861	29		

Number and Amount of Individual Depositors in Savings Banks and of Charitable Institutions in Scotland in account with Savings Banks and Amount of Friendly Societies in account with Savings Banks

Total . .

Number and Amount of Friendly Societies in account with Savings Banks

is promised to certify the rules of the association.

Act IV. c. 57, passed in 1843, extended the provisions of Act IV. c. 12, and of 1 Wm. IV. c. 12, to savings banks in Scotland, and directed existing banks to conform to the Acts by preparing and depositing rules pursuant to these Acts.

History of Royal and Savings Banks established by warrant dated Dec. 14, 1844. The following is the list of all sums deposited in them in the year ended March 31, 1844, sums withdrawn during the same year, and of the interest allowed upon deposits, and also of the number of deposits on the 31st of March, 1844:

	£	s.	d.
Amount of sums deposited	13,480	3	3
Amount of deposits withdrawn	3,411	11	0
Amount of interest allowed	66	10	10
Sum due by the public	14,849	1	11
Number of depositors	3,890		

History of Savings Banks, by J. Thibault. *The Law relating to the Purchase of Government Securities through Savings Banks and Friendly Societies*, by the same author. *A Summary of Savings Banks*, by the same author, 1846. **CANDAL**. (LIND, SLANDER)

SCHOOLS. A school is a general place for instruction. There are schools for young children, called primary schools, schools for children of advanced age, and schools for the furtherance of learning, as Grammar schools, colleges, and universities. There are also schools for special branches of science, as schools for Agriculture, Medicine, Theology, Law, and so forth. The school systems of all nations have something peculiar, and the peculiarities are closely connected with the political condition of each country. A good system of schools of all kinds suited to the wants of a political community perhaps exists in every country, though some of the free states have perhaps approached nearer to establishing such a system than any other countries. There are modes in which good schools may be established: a government may make the whole school system a part of ad-

ministration, and leave very little to individual enterprise and competition, or the establishment of schools of all kinds may be left nearly altogether to individual enterprise. Perhaps in no country has either the one or the other mode been altogether followed. Prussia is an instance in which the government has apparently done most in the way of directing the establishment and management of schools, and in England, of all countries which have attained a high degree of wealth and power in modern times, the government has perhaps done the least, though perhaps in no country have benevolent individuals and associations of individuals contributed so largely to the establishment of permanent places of education. England is also the country in which there are most schools kept by individuals for the object of private profit.

It is impossible to consider a state well organized which shall not, to some degree and in some manner, superintend all places for education. It is equally impossible to view education as well organized in a state, if all competition shall be excluded from the system, and in fact there is no country, not even those in which education is most directly made a branch of administration, in which some competition of some kind does not exist. In fact, if it does not exist in some form and in some degree, there will be no efficient instruction.

The general consideration of this subject is contained in the article **EDUCATION**.

SCHOOLS, ENDOWED. An Endowed School in England is a school which was established and supported by funds given and appropriated to the perpetual use of such school, either by the king or by private individuals. The endowment provides salaries for the master and usher, if there is one, and gratuitous instruction to pupils, either generally or the children of persons who live within certain defined limits. Endowed schools may be divided, with respect to the objects of the founder into grammar-schools, and schools not grammar-schools. A grammar-school is generally defined to be a school in which the learned languages.

the Latin and the Greek, are taught. Endowed schools may also be divided, with respect to their constitution for the purposes of government into schools incorporated and schools not incorporated. Incorporated schools belong to the class of corporations called ecclesiastical, which comprehend colleges and halls, and chartered hospitals or almshouses. (C. 11. c. 12.)

Endowed schools are comprehended under the general legal name of Charities, as that word is used in the act of the 43rd of Elizabeth, chap. 4. which is entitled, 'An Act to redress the Misemployment of Lands, Goods, and Stocks of Money heretofore given to Charitable Uses.' Incorporated schools have generally been founded by the authority of letters patent from the crown, but in some cases by act of parliament. The usual course of proceeding has been for the person who intended to give property for the foundation of a school, to apply to the crown for a licence. The licence is given in the form of letters patent, which empower the person to found such a school, and to make, or to empower others to make, rules and regulations for its government, provided they are not at variance with the terms of the patent. The patent also incorporates certain persons and their successors, who are named or referred to in it, as the governors of the school. This was the form of foundation, in the case of Harrow School, which was founded by John Lyon, in the fourteenth year of Elizabeth, pursuant to letters patent from the queen. Sometimes the master and other are made members of the corporation, or the master only; and in the instance of Herkingsham School, which was founded by act of parliament 2 & 3 Edw. VI, reciting certain letters patent of Henry VIII, the corporation consists of the master and scholars only, of whom the master is appointed by the crown, and the scholar is appointed by the master. Lands and other property of such a school are vested in the corporation, whose duty it is to apply them pursuant to the terms of the foundation, in supporting the school. *Many school endowments are of a mixed nature, the funds being appropriated both*

to the support of a free school and other charitable purposes. These purposes are very various, but then the union or connection of pious or almsgiving with a free school is one of the most common.

Where there is no charter of incorporation, which is the case in a great number of school endowments, the lands and other property of the school are in trustees, whose duties as to the estate of the funds, are the same as the case of an incorporated school, necessary from time to time for the trustees to add to their numbers by legal modes of conveyance as to the school property in them and if trustees jointly. These conveyances have caused a considerable expense when they have been required, and estates have consequently become in the help at law of the survivors of some difficulty is occasionally experienced in finding out the person in whose school estates have thus become. When the school property consists of money, the same kind of difficulty and inquiry is also more liable to than land.

Every charity, and schools amongst rest, seems to be subject to visitation, shall first speak of incorporated schools.

The founder may make the person whom he gives the school property to also the governors of his foundation for all purposes, and if he names a special visitor, it appears that such will be visitors as well as trustees. Sometimes a person is named as visitor, such person is called a special visitor, and it is a general rule that if the founder has named a special visitor, and does not name the governors of his foundation, the person named is the visitor, and if there is no such person named, the crown will visit by the lord of the great seal. The king is visitor of schools founded by him or his predecessors. The duties of trustees and visitors are quite distinct, whether the same persons are trustees and visitors or different persons. The duty of trustees is to preserve the property, and to apply it as the property is intended by the founder. In the

teaching grammar, and a decree was made for restoring the school according to the intention of the founder. But it appears from the first statute that the school was also intended to be an English school.

As to teaching something besides Latin and Greek in an endowed school, Lord Eldon observes (*Att.-Gen. v. Hartley*, 2 J. & W., 378.), "if there was an ancient free grammar-school, and if at all times something more had been taught in it than merely the elements of the learned languages, that usage might engraft upon the institution a right to have a construction put upon the endowment different from what would have been put upon it if a different usage had obtained." When the founder has only intended to establish a grammar-school, and has applied all the funds to that purpose, none of them can be properly applied to any other purpose, such as teaching the modern languages or other branches of knowledge. When the funds of a school have increased so as to be more than sufficient for the objects contemplated by the founder, the Court of Chancery will direct a distribution of the increased funds, but it will still apply the funds to objects of the same kind as those for which the founder gave his property. If then a founder has given his property solely for the support of a grammar-school, it is inconsistent with his intention to apply any part of the funds to other purposes, such for instance as paying a master for teaching writing and arithmetic; and yet this has been done by the Court of Chancery in the case of Monmouth school 3 Russ., 530, and in other cases. The foundation of Monmouth school consists of an almshouse, a free grammar-school for the education of boys in the Latin tongue, and other more polite literature and erudition, and a preacher. The letters patent declared that "all issues and revenues of lands to be given and assigned for the maintenance of the almshouse, school, and preacher, should be expended in the sustentation and maintenance of the poor people of the almshouse, of the master and under-master of the school, and of the preacher, and in repairs of the lands and possessions of the charity." Not-

withstanding this, the Court of Chancery appointed a writing-master, at a salary of 100*l.* per annum, to be paid out of issues and revenues, and thus it took 100*l.* per annum from those to whom the founder had given it. This was on the authority of a case in the 1797, which was itself a bad precedent.

Lord Eldon's decision in the Market Bosworth school (*Att.-Gen. v. Dixie*, 3 Russ., 534) established that in the school, whose sole occupation was to be to instruct the scholars in writing, and arithmetic, and it gave the master a salary of 50*l.* per annum out of the school funds. But in doing this Lord Eldon merely did what the donor intended. Market Bosworth is one of those grammar-schools in which the founder has directed that other things should be taught besides Latin and Greek. According to the statutes, the school is to be divided into two branches, the lower school and the upper, and "in the form of the lower school shall be the A, B, C, Primer, Testament, and English books." In the upper school instruction was confined to Latin, and Hebrew. It is therefore in this case as clear that the founder's intention was carried into effect by the decree of the court, as it is clear that in the case of Monmouth school such intention was violated. The case of Monmouth school however, furnished a precedent, has been followed in other cases.

There are many grammar-schools in which nothing is provided for or intended by the founder except instruction in grammar, which, as the statutes are then understood, appears to require only the Latin and Greek languages. Sometimes only Latin perhaps. No provision is made for other instruction in addition to, or rather as prelude to, the grammar instruction, and expressions like those already mentioned in the case of Highbury and Market Bosworth schools have been used by the founder or the makers of the statutes. In the founder's rules for the grammar-school of Manchester, which has an income of above 4000*l.* per annum, it is said, "The high-master for the time being shall always appoint one of his

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I have been thinking about you very much lately
and wondering how you are getting along.
I hope you are well and happy as always.
Please write back soon so I can hear from you.

Your affectionate friend,
[Signature]

P.S. Please take care of yourself!

grammar-schools. That it was part of the discipline of such schools before the Reformation cannot be doubted, and there is no reason why it should have ceased to be so after the Reformation, as will presently appear. It is generally asserted that in every grammar-school religious instruction ought to be given, and according to the tenets of the Church of England, and that no person can undertake the office of schoolmaster in a grammar-school without the licence of the ordinary. This latter question was argued in the case of *Rex v. the Archbishop of York*. (6 *T. R.*, 420.) A mandamus was directed to the archbishop directing him to license R. W. to teach in the grammar-school at Skipton, in the county of York. The return of the archbishop was that the licensing of schoolmasters belongs to the archbishops and bishops of England, that R. W. had refused to be examined, and he relied as well on the ancient canon law as upon the canons confirmed in 1603 by James I. (*The Constitutions and Canons Ecclesiastical, Schoolmaster*, 77, 78, 79.) The return was allowed, and consequently it was determined that the ordinary has power to license all schoolmasters, and not merely masters of grammar-schools. As to schoolmasters generally, the practice is discontinued, and probably it is not always observed in the case of masters of grammar-schools.

The form of the ordinary's licence is as follows: "We give and grant to you, A. B., in whose fidelity, learning, good conscience, moral probity, sincerity, and diligence in religion we do fully confide, our licence or faculty to perform the office of master of the grammar-school at H., in the county, &c., to which you have been duly elected, to instruct, teach, and inform boys in grammar and other useful and honest learning and knowledge in the said school allowed of and established by the laws and statutes of this realm, you having first sworn in our presence on the Holy Evangelists to renounce, oppose, and reject all and all manner of foreign jurisdiction, power, authority, and superiority, and to bear faith and true allegiance to her majesty Queen Victoria, &c., and subscribed to

the thirty-nine articles of religion of the United Church of England and to the three articles of the sixth canon of 1603, and to all contained in them, and have before us subscribed a declaration of your conformity to the Liturgy of the United Church of England and as is now by law established, &c."

From this licence it appears that the master of every school who is licensed by the ordinary must be a member of the United Church of England, and must take an oath and make the subscribed declarations which are recited in the licence.

It is a common notion that the master of a grammar-school must be a member of Oxford or Cambridge, and of the orders, and such is the present law. But it is by no means always observed that the rules of endowed schools require the master to be in holy orders. The founders seem generally to have considered this a matter of no great importance, but many of them provided that the master was in orders, or took orders, should not at least encumber himself with the cure of souls. The law clearly was, that the master of a grammar-school should devote himself to that work, and it was a good rule. The Court of Chancery has in many cases ordered that the master should be a clergyman, where the founder has so ordered. Dean Cret, the founder of St. Paul's School, London, ordered in his statutes, that neither of the governors of that school, if in orders, nor any other person, shall have any benefice or service which may hinder the business of the school. He appointed a clergyman to be the master, thereby appearing that the religious instruction should be given by the masters of grammar-schools, and that the religious instruction would be fully employed otherwise.

It has sometimes been doubted whether a master of a grammar-school could take ecclesiastical preferment with him. The founder has not forbidden this, and no rule of law which prevents the holding of the two offices can cause him to neglect the duties of the school. The remedy is just the same as in the case of the founder.

either of his officers for any other purpose. Any grammar school are only free to children of a particular parish, or some particular parishes, but this privilege has occasionally been extended to a greater surface, as in the case of Linslade school. Some are free to all persons, which is the case with that of King Edward VI. Endowments diminish the number of free boys in a school, but the master is allowed to take scholars either by usage or by the terms of the endowment. At present the practice of masters of grammar schools to bestow if they choose, but in some instances the number is limited. Abuses necessarily have arisen from the practice of master taking boarders, and the revenue of the parish or township for the school was intended have been used or lost to quit the school some in consequence of the head master solely intent on living a profitable living school. But in most cases school has benefited by the master taking boarders, and this has frequently been the only means by which the school has been able to maintain itself as a free school. When the situation has been good one, an able master has often found willing to take a grammar school with a house, and a small salary paid to it, in the hope of making up sufficient income by boarders. As can only be effected by the master's industry and diligence in teaching, a small endowment has thus frequently been to the advantage of its grammar school, which otherwise would have been lost.

There has never been any general superintendence exercised over the endowment schools of this country. The Court of Chancery only interferes when applied to, and then only to a certain extent, and visitors are only appointed to visit the endowments, they are often ignorant of their powers, and rarely exercise them. As many of the places have only small endowments situated in obscure parts, the property vested in unincorporated trustees, who are ignorant of their duties and sometimes careless about it,

we may easily conceive that these schools would be liable to suffer from fraud and neglect, both of trustees and masters, and this has been the case. The object of the statute of Elizabeth was to redress abuses in the management of charities generally, but a great many endowments for education were excepted from the operation of that statute, which indeed seems not to have had much effect, and it soon fell nearly into disuse. Applications for the redress of abuses have, from time to time, been continually making to the Court of Chancery and Duchampstead school has now for a full century, been before the court. In many cases the governors of schools have obtained Acts of Parliament to enable them better to administer the funds. This was done in the case of Mueselgheld school by an Act of the year 1774, and another for the same school has recently been obtained. An Act of Parliament was also obtained in 1831 for the free school of Birmingham, the property of which had at that time increased considerably in value, and is still increasing. Both these schools were foundations of Edward VI. and were endowed with the property of suppressed religious foundations.

The condition of the endowments for education in England may now be collected from the Reports of the Commissioners for Inquiry into Charities. In 1842 commissioners were appointed under the great seal, pursuant to an Act passed in the 5th year of the reign of George III, entitled "An Act for appointing Commissioners to inquire into Charities in England for the Education of the Poor." A great many places were excepted from the operation of this Act. The commission was continued and renewed under various Acts of Parliament, the last of which (3 & 4 Wm IV. c. 71) was entitled "An Act for appointing Commissioners to continue the Inquiry concerning Charities in England and Wales and the 1st day of August 1847." All the exceptions contained in the first Act were not retained in the last. But the last Act excepted the following places from inquiry: "The universities of Oxford and Cambridge, and the colleges,

and halls within the same, all schools and endowments of which such universities, colleges, or halls are trustees the colleges of Westminster, Eton, and Winchester, the Charter House, the schools of Harrow and Rugby, the Corporation of the Trinity House of Deptford Strand, cathedral and collegiate churches within England and Wales, funds applicable to the benefit of the Jews, Quakers, or Roman Catholics, and which are under the superintendence and control of persons of such persuasions respectively." Under the last Act the Commissioners completed their inquiries into endowments for education and other charities, with the exceptions above specified. The Reports of the Commissioners contain an account of the origin and endowment of each school which was open to their inquiry, and also an account of its condition at the time of the inquiry. The Reports are very bulky and voluminous, and consequently cannot be used by any person for the purpose of obtaining a general view of the state of these endowments, but for any particular endowment they may be consulted as being the best, and in many cases the only accessible sources of information.

The number of grammar-schools reported on by the Commissioners is 700, the number of endowed schools not classical, 2150, and of charities for education not attached to endowed schools, 3388. The income of grammar-schools reported on is 162,047*l.* 14*s.* 1*d.*, of endowed schools (not classical), 111,385*l.* 2*s.* 1*d.*, and of the other charities given for or applied to education, 12,112*l.* 8*s.* 8*d.*

The previous remarks on grammar-schools must be taken subject to the provisions contained in a recent Act of Parliament, which is the only attempt that has been made by the legislature to regulate schools of this class. This Act (3 & 4 V. c. 77) is entitled "An Act for improving the Condition and extending the Benefits of Grammar-Schools." The Act recites, among other things, that the "patrons, visitors, and governors of such grammar-schools are generally unable of their own authority to establish any other system of education than is expressly provided for by the foundation, and her Majesty's courts of law and

equity are frequently unable to grant adequate relief, and to do so but at considerable expense." The Act then declares that the courts of equity shall have power, as in the Act provided, to make such decrees or orders as to the courts shall seem expedient, as to extending the system of education, or other useful branches of literature or science, in addition to or subject to the provisions therein (after continued) of the Greek and Latin languages, such other instruction as may be required by the terms of the foundation or then existing statutes, as also for enlarging or restricting the freedom of right of admission to such school, terminating the number or the duration of boys who may therein be admitted thereto as free scholars otherwise, and for settling the terms of admission to and continuance in the school, and to establish such schemes for the application of the revenues of such schools as may in the opinion of the court be conducive to the better maintaining such schools in the degree efficient and useful, with regard to the intentions of the founders and benefactors, and may at what period, and upon what terms, make such decrees or orders, or any other thing contained therein, shall be brought into operation; and that such decrees or orders shall have force and effect notwithstanding any provisions contained in the instruments of foundation, or in the statutes, or in the existing statutes," but it is provided that if there shall be any special provision pointed by the founder or some competent authority, he shall be bound to refer the matters in question before the court, and the court shall not make any orders or decrees.

This enactment extends the power of the court over grammar-schools considerably, as will appear from what has been said, not so much to extend as to view what the court has done, and we take the declarations of the present equity judges as to what they can do. The power however—of changing a grammar-school into one not a grammar-school, which is given by the Act, is a considerable extension of the

of the grammar-schools of the city (supposed to be Theodore's school or its representative), and the rector of St. Martin's, who kept a school in right of the church. The object of the suit was to limit the rector of St. Martin's in the number of his scholars. This school probably existed till the Reformation, at least this is the time when the present King's school of Canterbury was established by Henry VIII. and probably on the ruins of the old school. Before the Reformation schools were also connected with chantries, and it was the duty of the priest to teach the children grammar and singing. There are still various indications of this connection between schools and religious foundations in the fact that some schools are still, or were till lately, kept in the church, or in a building which was part of it. There are many schools still in existence which were founded before the Reformation, but a very great number were founded immediately after that event, and one professed object of king Edward VI. in dissolving the chantries and other religious foundations then existing was for the purpose of establishing grammar-schools, as appears from the recital of the Act for that purpose (1 Ed. VI. c. 14). [CHANTRY.]

Though the Act was much abused, the king did found a considerable number of schools, now commonly called King Edward's Schools, out of tithes that formerly belonged to religious houses or chantry lands; and many of these schools, owing to the improved value of their property, are now among the richest foundations of the kind in England. In these, as in many other grammar-schools, a certain number of persons were incorporated as trustees and governors, and provision was made for a master and usher. At that time the endowments varied in annual value from twenty to thirty and forty pounds per annum.

A large proportion of the grammar-schools were founded in the reigns of Edward VI. and Elizabeth, and there is no doubt that the desire to give complete ascendancy to the tenets of the Reformed Church was a motive which weighed strongly with many of the founders. Since the reign of Elizabeth we find

grammar schools occasionally established but less frequently, while endowments of schools not grammar-schools have generally increased so as to be much more numerous than the old foundations of the latter kind are still maintained by the bounty of individuals from time to time: and a recent Act of Parliament (2 & 3 Wm. IV. c. 115) has made it lawful to give money by will for the establishing of Roman Catholic schools. The statute of the 9th Geo. II. commonly called the Mortmain Act placed certain restrictions on gifts for charitable purposes, which restrictions consequently extend to donations for the establishment or support of [MORTMAIN.]

The history of our grammar-schools before the Reformation would be a part of the history of education in England, for up to that time there were probably no other schools. From the time of the Reformation, and particularly within the last half-century, the grammar-schools of England were the places of early instruction for all who received a liberal training. These often humble and unpretending institutions has issued a series of patriotic and successful men, often of distinguished talents and stunted means, who have testified the wisdom of the founders of grammar-schools in providing education for those who would otherwise have been without it, and thus securing to the services of the best of her children. Though circumstances are now changed, there is nothing in the condition of the country which renders it prudent to alter the foundation of schools to any great extent, and certainly there is every reason for maintaining them in all the integrity of their revenues, and for labouring to make them as efficient as their means will allow. The conflict of parties who are at variance about education, but in fact rather tending for other things in the education of private schools, which from their nature must be conducted by the proprietor with a view to a temporary profit, and in the attempt made to form proprietary establishments which shall

advantages of grammar schools and schools, and shall not labour the defects of either—we see no schools in which to rest our minds, a sound education being secured to the youth of the middle and upper of this country. The old grammar schools, on the whole, possess a better education than anything that has been attempted, and though circumstances demand changes in many of them, more so changes which shall only alter their character. In the state of affairs there are specially noted for the middle classes who attend established schools, and it is desired to cherish and support them as the whole body of the people by the Commissioners for Inquiry. Notices have been prepared and sent to both Houses of Parliament.

Two of these volumes, *Chronicles* and *1820 pages* respectively, an *Analytical Digest*, are arranged in the alphabetical of every county in England, in Wales, and in *London* and the head of every city and parish in every county are given the following:—The cities and parishes are set in alphabetical order. The list of the church or churches for what each church is applicable, the list of land and number of houses, and paid for the same, the amount of rateable rents and rates charges, the amount of land tax, if any, the list of the amount of property, distinguishing money in debt on mortgage or on personal or security, or in being acquired by way of, with or without interest, the amount of each church, and a list of observations.

The first volume of the *Analytical Digest* contains a reference to the volume of each Report.

Observations on the Reports are noticed in the Digest at the end of each county. The Digest concludes with a summary of those which are reported on (Common) under the head of *Common*.

Second part of the Return (a folio

of 601 pages, contains a more particular Digest of all schools and charities for Education. It is divided into three parts: the first relating to Common schools, viz. in which Greek or Latin is required to be, or is in fact, taught, secondly, Schools not Common, and thirdly, Charities for Education not attached to Endowed Schools which include donations for the support of Sunday-schools.

A good deal has been written on the subject of endowments for education from time to time. There are several articles on endowed schools in the *Journal of Education*, and an article on endowments in England for the purposes of Education, in the second volume of the publications of the Central Society of Education, by George Lang. The evidence before the select committee of the House of Commons in 1845, contains much valuable information. In 1848 a similar pamphlet on grammar schools appeared in the form of a letter to Sir H. Inglis, by the Honorable Daniel Finch, for twenty years a charity commissioner. We are indebted to this letter for several facts and suggestions.

SCIRE FACIAS, a writ issued for the purpose either of enforcing the execution of, or of vacating some already existing record. It directs the sheriff to give notice ("scire facias," whence the name) to the party against whom it is obtained to appear and show cause why the purpose of it shall not be effected. A summons to this effect should be served on the party, whose duty then is to enter an appearance, after which a declaration is delivered to him, reciting the writ of scire facias. To this he may plead or demur, and the subsequent proceedings are analogous to, and in fact are in law considered as an action. If the party cannot be summoned, or fails to appear, judgment may be signed against him. The proceedings under a scire facias are resorted to in a variety of cases. They may be divided into—

1. Those where, the parties remaining the same, a scire facias is necessary to revive or set in operation the record.

2. Those where another party seeks to take the benefit of it, or becomes chargeable, or is injured, by it.

In cases where a year and a day have elapsed since judgment has been signed, and nothing (such as a writ of error, an injunction, &c.) has existed to stay further proceedings, it is a legal presumption that the judgment has either been executed, or that the plaintiff has released the execution. In such case execution cannot issue against the defendant until he has had an opportunity, by means of the notice given him under a writ facias, of appearing and showing any cause which may exist why execution should not issue against him. If the judgment has been signed more than ten years, a writ facias cannot issue unless with the permission of the court or a judge, and by the statute 3 & 4 Wm. IV. c. 27, § 40, proceedings appear to be limited to a period of twenty years. When a plaintiff, having had execution by legal tender which he obtains possession of a moiety of the rents and profits of the defendant's land, has had the debt satisfied by payment or from the profits of the land, more facias may be brought to recover the land.

and The cases of more ordinary occurrence under the second head are those where one of the parties to an action becomes bankrupt, or insolvent, or dies, or, being a female, marries, or where it is a suit to enforce the rights of a party till against the bail to an action, or to set aside letters patent. If a woman obtain a judgment, and marry before execution, the husband and wife must sue out a writ facias to have execution. And if judgment is obtained against a woman, and she marries before execution, a writ facias must be brought against her and her husband before execution can be obtained. A writ facias is the only proceeding for the purpose of repeating letters patent by which the king has made a great injurious to some party, in where he has granted the same thing which he had already granted to another person, or a new market or fair is granted to the prejudice of an ancient one, &c. The king may have a writ facias to repeal his own grant, and any subject who is injured by it may petition the king to use his name for its repeal. A man may have a writ facias to recover the money

from a sheriff who has let out
these farms and retains the proceeds
12 West Second St., Todd's Bldg.
Archibald & Pringle

MEETING CHURCH (O)
Assembly of the Church of
LAND.

NO. 1, 1912, at KNOXVILLE.
DALL. MONTHLY, p. 24.

SEARCH, RIGHT OF. The rat principle upon which that part of Law of Nations is constructed respects the danger to be observed neutral powers in time of war but belligerent powers have been under the bond of HUMANITY is only necessary further to remark manifestly no other right can be claimed by the belligerent over the neutral without the right of search. The existence of such a right accordingly is admitted on the rule, whatever may be the rule or exception. An Lord Stowell held in his judgment on the case of the *Carroll v. Kensington*, 1 T. R. 542. "Till they are visited and searched does not appear what the cargo, cargo, or the destination are for the purpose of ascertaining points that the necessity of that visitation and search exists."

In the exercise of the right of
upon a neutral vessel, the first ob-
vial object of inquiry is general
ship's papers. These are, the pro-
from the neutral state to the cap-
tainer, the sea letter, or sea brief,
fixing the nature and quantity of
cargo, the proof of property, the
test of the crew, containing the
age, rank or quality, place of re-
and place of birth of each of the
company, the names and posts of
of the log, the inventory and price
the bill of health, & liberty on the
Atkins, pp. 110-111.

The penalty for the violent inter-
tion of the right of visitation and
in the cancellation of the ship and
and a fine by the crew with the
are in actual possession be considered
the same thing with a forcible pos-
In either case the remaining ship
seized in the same manner as

in the evening and having brought
it into the room I placed it in a jar

the axis of the heliometer prism
with any of the central stars
of the group shall any line
be visible in the field and then
the distance of the star from the
axis of the heliometer prism

"I was wrong," said Howell in the same judgment, "they are not a nation, if they think fit, to take notice of their own soil. I am content, that the permanent peace should shape along with their changes, and be mutually consistent; that nothing is to be found necessary of necessarily adapting itself with unity or instability, and, if want to accept this pledge, they have a right to put forth with it, and with any other pledge they may choose instead to accept, or even to combine with any other, as they see fit, and to satisfy by

[illegible]

It was naturally assumed that

the right of visitation and search is retained
in a small vessel a ship of war, or capable
of entering upon itself and this is the
usual limitation of the right. It is
strange that there should ever have been
any doubt or dispute upon this, and a
ship of war has always been looked upon
as in a manner part of the nation's mili-
tary and as such entitled to in every cir-
cumstance whatever the act of entering
it in search either of contraband goods
or of deserters equal to that of an ar-
rest of the same character with that of
pursuing a deserter or fugitive across
the frontier of the state without permission
of the sovereign authority, a thing the
right of doing which has never been
challenged. Accordingly although it has
been a common thing for nations to dis-
cuss by express stipulation in their
treaties with one another that the
rights of each shall extend to particu-
lar vessels in the execution of their
rights of pursuit or of capture, nothing
was regarded as important or new, the bar-
rings used has always implied that the
extension was to be confined to particular
vessels of the commission by one power
to another of the right of entering and
upon vessels of war detained in conflict
with each other, and to be limited to any
such treaty. Yet in private treaties
now being made, notwithstanding the
usual stipulation to be entered into effect
by treaty, when what the object is of the
war was important that had taken end
to the preceding year, the Dutch were
reluctant to agree to any such treaty
even for peace upon national duty terms,
the English government compelled them
of the necessity of the proposed treaty
that all Dutch vessels, both of war and
commerce should be allowed to be visited,
if the treaty required that, entered on the
Dutch were, they proportionally refused to
agree to any such stipulation and the
treaty was concluded in such a way that
very soon after the peace, the subject
being was again taken the whole
subject of the visitation and search of
ships of war and their commission by
the assistance of one of the vessels of
war of a very small class of one hundred
tons, having been used by an English man-of-
war in the Bosphorus, when the vessel

men were subjected to search. The first question that arose was, whether even such an exercise of the right of search was legal in the practice of the convey, and upon this question the States determined that "the refusal to let merchantmen be searched could not be persisted in." At the same time, however they took occasion to make the following declaration—"That, in conformity with their High Mightinesses' instructions taken in respect to the searching of ships of war and especially those of September, 1627, November, 1648, and December, 1649, it is thought good, and resolved, that all captains and other sea officers that are in the service of this state, or cruising on commission, shall be new strictly commanded, told, and charged that they shall not condescend to no commands of any foreigners at sea, much less obey the same; neither shall they any ways permit that they be searched, nor deliver, nor suffer to be taken out of their ships, any people or other things." From this time for more than a century and a half, the principle of the immunity of ships of war from visitation and search was acquiesced in by the practice of our own and of every other country, nor is it known to have been contested ever in speculation. But at length, in the course of the controversy that arose respecting the rights of neutrals out of the North and African decrees of the French emperor and our own Orders in Council, in 1805 and 1807 (*Blackstone*), when some extreme partisans on the one side contended that even merchant ships were not liable to search when under the convoy of a man-of-war, others on the opposite side revived the old pretension of the English republican government of 1653, and maintained our right of visiting and searching the ships of war themselves of neutral states whenever we should think proper. The practical application of the principle that was now especially called for was the visitation of the ships of war of the United States of America for the purpose of recovering seamen alleged to be subjects of this country and deserters from the British service. The pretension thus set up was ably discussed, and its unwarrantable character clearly demon-

strated, in an article published in the *Edinburgh Review* for 1796, pp. 4-12. But before this paper an actual enforcement of the right had occurred in an attack on the 23rd of June, by the British *Leopard* upon the American *Chesapeake*, lying off the Virginia. On the refusal of the captain to permit his ship to be searched the *Leopard* fired into the *Chesapeake*, which, being unprepared for, immediately struck her flag, and she was then left. A late American, not in too strong language, thus set us "an example of power beyond all parent and which elevated the nation to its extremities" (*Tucker's Life*, ii. 258). President Jefferson issued a proclamation interdicting British vessels from the ports and waters of the United States, bidding all supplies to the intercourse with them. The minister in London was also to demand satisfaction of the Government. The conduct of the *Leopard* was not attempted to be justified by the ministry but, on the contrary, its illegality was admitted, at least by *Lord Canning*, then Secretary of Foreign Affairs, insisted that as the United States had taken of retaliation into their own hands Britain might take them on account in the estimate. It may be inquired whether the Proclamation would be withdrawn if disavowing the act of *Humphreys* of the *Leopard*, *Miral Berkeley*, his command who had directed it. The government was justified by the American as a measure of prevention of retaliation. Negotiations continued for a long time without result, the affair of the *Leopard* became mixed and complicated by other incidents, giving rise to and counterclaims at last the government took its stand on the objection to our search and

but even of merchant vessels for war, it was not denied that the act of merchantmen was sanctioned by law of nations, but the exercise of the right was denounced as unnecessary and fraught with danger, and urged that it should not be dispensed with and established and war broke out between the nations in the summer of 1812, and that did not settle any of the questions that had arisen between them in connection with the right of search. Treaties of peace signed at Ghent on Dec. 24, 1814, contained no stipulation on that subject, which was supposed to have lost its practical value for the present by the cessation of the general war which had occasioned the difficulties respecting the status of neutral states.

The right of visitation and search, however, by its nature necessarily confined to times of war. It has never been always admitted to be equally allowed by international law in times of peace, though it has sometimes been then been so frequently thought to be called for. The very right of search by one country of its vessels engaged in the mercantile navy, for which was one of the main points at issue between England and France during the breaking out of hostilities in 1812, may arise in times of peace as well as in a time of war. Its importance no doubt is in the former than in the latter, and questions connected with the right of search, the number of which is reduced in times of general peace, are relating to the trading rights of nations, but even of these some are of late years, however, the right of search has become principally and in reference to the trade in slaves which has now been declared to be illegal by most of the great maritime powers.

The right of visitation and search, or its exercise may be regulated, to affect this only means of suppressing the slave trade, whether or not a vessel has put on board, but it is said that it has appeared, for whatever reason, exercise of that right may, even declaring the slave trade to be

illegal, refuse to allow that illegality to be made an excuse for the visitation of suspected ships bearing its flag. It is only by express stipulation that the free exercise of the right can be established. England, which has all along been foremost in the attempt to suppress the slave trade, has never objected to the exercise of the right of search for this, or indeed for any other legitimate object; but other nations, jealous of our predominant maritime power, have, not perhaps very unreasonably, been extremely reluctant to concede it in this particular case. Some further remarks on this subject are briefly made under the article SLAVE, SLAVERY, farther on in this work.

SEARCHERS. (Jura or Mon-
tatu.)

SEAWORTHINESS. (Suis.)

SEALARY (French, *Secrétaire*), one entrusted with the secrets of his office or employer, one who writes for another. Its remote origin is the Latin *secretum*. The phrase "*notarius secretorum*" is applied by Vopiscus (*Vita Aureliani* c. 28) to one of the secretaries of the emperor Aurelian. This appellation was of very early use in England. Archbishop Becket, in the reign of Henry II, had his "*secretarius*," although the person who conducted the king's correspondence, till the middle of the 13th century, was called his clerk only, probably from the office being held by an ecclesiastic. The first time the title of "*secretarius noster*" occurs is in the 7th Hen. III, 1251.

SECRETARY OF STATE. The office of secretary of state is one of very ancient date, and the person who fills it has been called variously "the king's chief secretary," "principal secretary," and, after the Restoration, "principal secretary of state." He was in fact the king's private secretary and had custody of the king's signet. The duties of the office were originally performed by a single person, who had the aid of four clerks. The statute 22 Hen. VIII c. 11, which regulates the fees to be taken by "the king's clerks of his grace's signet and privy seal," directs that all grants to be passed under any of his majesty's seals shall, before they are sealed, be brought

and delivered to the king a principal secretary or to one of the clerks of the signet. The division of the office between two persons is said to have occurred at the end of the reign of Henry VIII., but it is probable that the two secretaries were not until long afterwards of equal rank. Thus we find Sir Francis Walsingham, in the time of Queen Elizabeth, addressed as her majesty's principal secretary of state, although Dr. Thomas Wilson was his colleague in the office. Clarendon, when describing the chief ministers at the beginning of the reign of Charles I., mentions the two secretaries of state, "who were not in those days officers of that magnitude they have been since, being only to make dispatches upon the conclusion of councils, not to govern or preside in those councils." Nevertheless the principal secretary of state must, by his immediate and constant access to the king, have been always a person of great influence in the state. The statute 31 Hen. VIII. c. 10, gives the king's chief secretary, if he is a baron or a bishop, place above all peers of the same degree, and it enacts that if he is not a peer he shall have a seat reserved for him on the woolsack in parliament, and in the Star Chamber and other conferences of the council, that he shall be placed next to the ten great officers of state named in the statute. He probably was always a member of the privy council. Lord Camden, in his judgment in the case of *Entick v. Carrington*, 11 Hargrave's *State Trials*, p. 317, attributes the growth of the secretary of state's importance to his intercourse with ambassadors and the management of all the foreign correspondence of the state, after the policy of having resident ministers in foreign courts was established in Europe. Lord Camden, indeed, denies that he was antiently a privy counsellor.

The number of secretaries of state seems to have varied from time to time. In the reign of George III. there were often only two; but of late years there have been three principal secretaries of state, whose duties are divided into three departments—home affairs, foreign affairs, and the colonies. They are always made members of the privy council and the

cabinet. They are appointed by mere delivery to seals of office by the king, capable of performing the last three departments, and the far considered as one, that removed from one secretary to another, a member of the Commons does not vacate his

To the Secretary of State the department belongs the maintenance of the peace within the kingdom, the administration of justice, and the royal prerogative is involved in patents, charters of incorporation, commissions of the peace and pass through his office. He directs the administration of affairs.

The Secretary for Foreign Affairs conducts the correspondence of the states, and negotiates treaties either through British ministers there, or personally with ministers at this court. He recommends crown ambassadors, ministers, and counsellors to represent Great Britain and countersigns their warrants.

The Secretary for the Colonies performs for the colonies the functions that the secretary of state performs for Great Britain.

Each Secretary of State has two under-secretaries of state by himself; one of whom is permanent, and the other is detached to the administration then in progress. It is likewise in each department an establishment of clerks appointed by the principal secretary.

The power to commit perjury or treason is incident to the office of principal secretary of state, which, though long exercised, is often disputed. It is not necessary to give the arguments on both sides, which are discussed with great effect in Lord Camden in the case above mentioned. In the case of *Entick v. Carrington*, which was a numerous judicial inquiry of the dispute between the John Walks at the beginning of George III. The conclusion of Lord Camden comes out—that the secretary of state is not a magistrate, but a minister of the common law; that the

seisin of their respective estates. The seisin of a rent which issues out of lands is quite distinct from the seisin of the lands, and therefore a disseisin of the estate in the land is not a disseisin of the rent.

In the conveyance of land by feoffment, the delivery of the possession, or livery of seisin, as it is termed, is the efficient part of the conveyance. [FROTHKINST.]

The word seisin is also applied to the services due from the tenant to the lord. When the lord has received the tenant's oath of fealty, he has obtained seisin of all his services.

Seisin in deed is obtained by actually entering into lands, and an entry into part in the name of the whole is sufficient; by the receipt of rents or profits, and by the actual entry of a lessee to whom the lands are demised by a person who is entitled to but has not obtained actual possession.

Seisin may also be acquired under the Statute of Uses, 27 Hen. VIII., which enacts that when any person shall be seised of any lands to the use, &c. of another, by reason of any bargain, sale, feoffment, &c., the person having the use, &c. shall thenceforth have the lawful seisin, &c. of the lands in the same quality, manner, and form as he had before in the use.

A disseisin supposes a prior seisin in another, and a seisin by the disseisor which terminates such prior seisin. To constitute a disseisin, it was necessary that the disseisor should not have a right of entry, that the disseisee should not voluntarily give up his seisin, and that the disseisor should make himself the tenant of the land, or in other words, should put himself, with respect to the lord, in the same situation as the person disseised. "But," it is well remarked (Co. Litt. 266. b. Butler's note), "how this substitution was effected, it is difficult, perhaps impossible, now to discover. From what we know of the feudal law, it does not appear how a disseisin could be effected without the consent or connivance of the lord; yet we find that the relationship of lord and tenant remained after the disseisin. Thus after the disseisin the lord might release the rent and services to the disseisee, might marry upon him, and if he died, his heir within age, the lord was entitled

to the wardship of the heir." doctrine of disseisin is in many ways very obscure, and of no practical importance.

SEPARATION A MEN-
THORO. (DIVORCE.)

SEPOY, or SIPOY, the native soldier in the East India. Lieber derives the word from bow and arrow, which were of almost universal use by the natives of India in offensive warfare. Bhils and Kholees who are engaged in the service of the British in protecting gentlemen's hereditary gardens are also called sepoy, more propriety, as they still use bow and arrow. The native soldiery pay of the British government is a large army, well trained in discipline; the men are of a stature a whit below that of Europeans, but they are quite as brave, as active, capable of undergoing fatigue and of sustaining even privations. To the attachment and loyalty of this army Great Britain is indebted for the possession of her empire, and it now secures her sovereignty over a territory more extensive than her own, and from her by the distance of half the globe.

The pay of the Sepoy is two or seven rupees, per month, double the wages of the class from whom they are generally recruited.

The Indian army in 1844, to the 'East India Calendar,' was as follows:—

Bombay.

- 26 regiments of native infantry
- 3 regiments of native cavalry
- 2 regiments of European infantry
- 1 regiment of artillery
- 1 corps of engineers
- 1 corps of invalids

Madras.

- 62 regiments of native infantry
- 8 regiments of native cavalry
- 2 regiments of European infantry
- 1 regiment of horse artillery
- 4 regiments of foot artillery
- 1 corps of engineers
- 1 corps of invalids

Company

- 1 regiments of native infantry.
- 1 regiments of native cavalry
- 1 regiments of European infantry.
- 1 regiments of horse artillery
- 1 battalions of foot artillery
- 1 corps of engineers
- 1 corps of invalids.

Each regiment consists of two battalions of 1000 men each. In 1842 the number of native soldiers in the pay of the British Company was 141,042, besides 10,000 native officers in all India. The number of European soldiers was 19,184, and 5,000 European officers, in all 240,000. The entire Indian army in 1842 amounted to 210,767.

SERJEANT-LATROUX [Harpour, p. 71.]

SERJEANT-LATROUX [Harpour, p. 71.]

SERJEANT, or **SERJEANT**, is a commissioned officer in a troop of cavalry or in a company of infantry. The duty of serjeants is to drill or instruct the plato the recruits of a regiment, and provide they get no masters or officers in the performance of the evolutions.

The serjeants of infantry are now armed with muskets like the rest of the troops. In each company, when a battalion is in line, a serjeant is appointed in each company, when the ranks are in line, and that officer advances to the front rank the serjeant steps back, but upon the ranks being ordered to turn upon to the rear. Four serjeants are charged with the important duty of guarding the colours of a regiment, they constantly attend the colours, who carry them, and are called colour-serjeants. One serjeant in each company is appointed to pay the troops, who to keep the accounts relating to the allowances, the state of their uniforms, &c.

The name of serjeant-at-law was, the common of France during the reign Philip Augustus applied to gentlemen who served in household, but were below rank of knights, and also as a general term to the inferior soldiers who were hired by the towns.

In the reign of Philip and Mary the

serjeant-major of the army was an officer whose post corresponded to that of the modern major-general, and the serjeant-major of a regiment was a field-officer, who would now be designated the major. At present the serjeant major is an assistant to the adjutant, and keeps the roster for the duties of the serjeants, corporals, and privates. The quartermaster-serjeant is one who acts immediately under the quartermaster of a regiment on all the details relating to the quarters of the officers and men, the supplies of food, clothing, &c.

SERJEANT, or **SERJEANT**. The word "serjeant" comes to us from "sergent," into which the French had modified the Latin "serenus." The word serjeanty, in French "sergenterie," was formed from "sergent," but was always used with reference to a particular species of service.

In the creation of serjeants, some ancient practices are still retained in those cases where the writ of the serjeant elect issues in terms time, but by statute of Geo. IV. c. 25, barristers who receive writs issued in vacation commanding them to appear in the Court of Chancery, and to take upon themselves the estate and dignity of a serjeant at law, are, upon appearing before the lord chancellor and taking the oath usually administered to persons called to that degree and office, declared to be serjeants at law sworn, without any further ceremony.

Serjeants at law are the only advocates recognised in the court of Common Pleas. In that court they retain their right of exclusive audience. This privilege extends to trials at bar, but not to trials at nisi prius, either at the assizes or at the sittings in London and Middlesex.

The serjeants formerly occupied three main, or collegiate buildings, for practice, and for occasional residence, situate in Chancery Lane, Fleet Street and Holborn. They have now no other building than Serjeants' Inn, Chancery Lane, which has been lately rebuilt. Here all the common law judges have chambers in which they dispose of business in a summary way, and with closed doors, of such matters as the legislature has expressly entrusted to a single judge, and of all business which

is not thought of sufficient magnitude to be brought before more than one judge, or which is supposed to be of a nature too urgent to admit of postponement.

The inn contains, besides accommodations for the judges, chambers for fourteen serjeants, the junior serjeants, while waiting for a vacancy, being dispersed in the different wings of courts.

In Serjeants' Inn Hall the judges and serjeants, or members of the Society of Serjeants' Inn, dine together during term-time. Out of term the hall is or was frequently used as a place for holding the revenue sittings of the court of Exchequer.

A full account of the various kinds of serjeants and of the origin of their functions is given in Manning's 'Servants ad Legem' [BARRISTER]. See also SERJEANT, in 'Penny Cyclopædia.'

SERJEANTS-AT-ARMS are limited by statute 13 Rich. II. c. 1, to thirty. Their office is to attend the person of the king, to arrest offenders, and to attend the lord high steward when sitting in judgment upon a peer. Two of these serjeants-at-arms, by the king's permission, attend the two houses of parliament. In the House of Commons the office of the serjeant at arms as he is emphatically called, is to keep the doors of the house, and to execute such commands, especially touching the apprehension of any offenders against the privileges of the Commons, as the House, through its speaker, may enjoin.

In some offices about the royal person the principal officer of the department is distinguished by the appellation of serjeant, as the serjeant surgeon.

SERJEANTY, GRAND. [GRAND SERJEANTY.]

SERVANT, one who has contracted to serve another. The person whom he has contracted to serve is styled master. Servants are of various kinds: apprentices [APPRENTICE], domestic servants who reside within the house of the master: servants in industry, workmen or artificers, and clerks, watchmen, &c. From the relation of master and servant a variety of rights and duties arise, some of which are founded on the common law, and some on statute.

A contract of hiring and service need

not be in writing unless it be for longer than a year, or for a year or more at some future time. If it is not liable to any stamp duty it apply to the superior courts of law. All such contracts imply a taking on the part of the servant fully to serve the master, and a lawful and reasonable command the range of the employment as far, on the part of the master, as the servant and pay him his wages. In all hiring where it is expressed, except those of domestic servants, it is a rule of law that the shall continue for a year. In the domestic servants it is determined month's warning, or the payment month's wages. Servants may be discharged or quit the upon a quarter's notice. This time may of course be rebutted circumstances in the contract inconsistent with its existence. In the case of a felony, or any kind of offence as to a misdemeanor committed during the time of the service, or of criminal acts, or determined disobedience, a servant in a domestic, he is not entitled to wages for the time which he has served. But in all where the contract is entire for the wages cannot be apportioned, service having been determined the expiration of the time contract in consequence of the fault of the he is not entitled to claim wages portion of the time during which served. The contract will exist, notwithstanding the fact the servant to perform, his illness, and he is therefore still entitled to receive his wages. The master, is not bound to pay the charges by necessity or attendance upon a servant. In case the goods of the are lost or broken by the care of the servant, the master is not to deduct their value from the wages servant, unless there has been a between them to that effect. Remedy is by an action at law against a servant. Where a master hires a man, the common-law action is

ment, what he does will bind his master, just as if he had expressly authorised the servant. But in all cases where there is no express evidence of the delegation of the master's authority, there must be facts from which such delegation can be inferred. Where a servant obtains goods for his master, which the master uses, and he afterwards gives money to the servant to pay for them, the master will be liable to pay for them, though the money should have been expended by the servant. If a coachman go in his master's livery to hire horses, which his master afterwards uses, the master will be liable to pay for them, though the coachman has received a large salary for the purpose of providing horses, unless indeed, that fact were known to the party who let out the horses. If a master is in the habit of paying ready money for articles furnished to his family, and gives money to a servant, on a particular occasion, for the purpose of paying for the articles which he is sent to procure, the master will not be liable to the tradesman if the servant should expend the money. If articles furnished to a certain amount have always been paid for in ready money, and a tradesman allows other articles of the same character to be delivered without payment, the master will not be liable, unless the tradesman ascertains that the articles are for the master's own use. Where a tradesman, who had not before been employed by a master, was directed by a servant to do some work, and afterwards did it without any communication with the master, it was held that the master was not liable, though the thing upon which the work was done was the property of the master.

Any person who interferes with the master's right to the services of his servant does him an injury for which he is responsible in an action for damages. A master may be deprived of the services of a servant, either by some act done to a servant, or by him being enticed out of the service. An action, therefore, may be brought by a master where a servant has received some personal injury disqualifying him from the discharge of his duties as a servant, or where he has been disabled by the overturn of a coach, or the

bite of a third person a dog. By a parent against the son or daughter is of this class. [P. 111] (111111)

An action will not lie against for enticing away a servant, if he has paid to the master the price stipulated for by the agreement of his service in case of his quitting his service. If a servant has been away from the service, an action will not lie against him for his breach of contract, as well as against the party who enticed him away.

The statute §2 Chap 111 r
preventing the counterfeiting
of the character of a
person of this statute a
person willfully giving a false
character is liable to an action
by the party who has been
given a false character to employ the
person any damages which he may
suffer in consequence of employing him

Formerly a settlement was made in a parish under a living and service for a year, Poor Law Amendment Act in 1834 for the future he goes to the Poor Law Commission, (Blackstone, Com. 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909

HERVIE E. [REDACTED]
HERVIE E. [REDACTED]
MISSION, C. O. B. [REDACTED]
[REDACTED] OF [REDACTED]
MISSION, KIRK [REDACTED]
MEMBER OF THE CHURCH OF [REDACTED]
MISSION, A. [REDACTED]

during which any court or in the transaction of judicial business the term Sessions is commonly denoted the meeting of the justice of the peace for the county, or other district who separate consideration of the prosecution of the authorities for the crown by that commission or authorities given by act of parliament.

County Society. The same
the power vested by the state
purpose of creating county
consists of two branches. The
relation to the power to be reg-
justice and viduity and super-
vision. The second branch of
mission creates the system of

in sessions. It begins as have also assigned you, or more of you of whom the assessor A. B. C. D. will shall be one our just the truth more fully, by and and lawful men of the city, by whom the truth of all be better known of all sort of business, proceedings, matters, acts, magis, tres, all things, writings, writings, actions whatsoever, and of all other causes and offences and of our power may or may require, &c.

Of whom any one of you A. B. C. D. E. F. &c. we may constitute the Quorum that because when the court is called the clause can be vel C. D. vel E. F. &c. &c.

1 Mary, sess 2, c. 2, s. 2, gives from concerning the of the power during the of a two sheriffs. If a man takes such shop, warehouse, barn, livery, knight, and at law his authority as peace sessions, 1 Edw. 1. c. 11. s. 10, s. 2, at this and presents are per acting as justices of the county during the time that is prescribed.

of the just can hold for the day publicly for the whole of the county within their commission a court of General Session.

By 12 Rich. II. c. 10, requires to be held in every year, or oftener if need be, and to hold are styled courts quarter sessions of the peace, &c. By different acts, the sessions are directed to be held in certain periods. The times prescribed to be held are, after the 11th of October after the 25th of December after the 1st of March after the 25th of June. Justices act irregularly in between the quarter sessions

at the prescribed periods except the April sessions, in respect of which power is expressly given in the justices to alter the time to any day between the 1st of March and the 2nd of April, sessions held at quarter sessions in other periods of the quarter are legal quarter sessions. When the business to be transacted at a court of quarter sessions is not completed before the time at which it is thought desirable for the justices to separate, the court is usually adjourned to a subsequent day this is also done when there is reason to expect that new matters will arise which it will be desirable to dispose of before the next quarter sessions. Two justices, one of them being of the quorum, may at any time constitute a general session of the peace but at such adjourned sessions no business can be transacted which is directed by any act of parliament to be transacted at quarter sessions.

Both general sessions and general quarter sessions are held by virtue of a precept under the hands of two justices, requiring the sheriff or return a grand jury before them and there fall a justice at a day certain, not less than fifteen days after the date of the precept, at a certain place within the district to which the commission extends, and to summon all constables, keepers of gaols and houses of correction, high constables, and bailiffs of liberties within the county.

Persons bound to attend at the sessions are— First, all justices of the peace for the county or district. Secondly, the mayor or burgess of the county, who is bound to attend by himself or his deputy, with the rolls of the sessions. Thirdly, the sheriff by himself or his under sheriff, to return the precept and lists of persons liable to serve on the grand or petty jury, to execute process, &c. Fourthly, the several constables of the county or district. Fifthly, the constables of hundreds or high constables. Sixthly, all bailiffs of hundreds and liberties. Seventhly, the keepers of gaols, to bring and receive prisoners. Eighthly, the keeper of the house of correction to give in a calendar and account of persons in his custody. Ninthly, all persons returned by the sheriff as jurors. Tenthly, all persons who have entered into a recognisance to

answer charges to be made against them, or to prosecute or give evidence upon charges against others.

Persons summoned on grand or petty juries ought to be males between 21 and 60 years of age, who are possessed of 10*l.* a year in lands or rents, or 20*l.* a year in leaseholds for an unexpired term or terms of 21 years or more, or who are householders, rated to the poor on a value of not less than 20*l.* (in Middlesex 3*0l.*), or who occupy houses containing not less than fifteen windows, and who are not peers, judges of the superior courts, clergymen, Roman Catholic priests, dissenting ministers following no secular employment but that of schoolmasters, and many others.

The justices in sessions have criminal jurisdiction, to be exercised partly according to the rules of common law and partly pursuant to different acts of parliament, they have also jurisdiction in certain civil matters created by different statutes; they have an administrative power in certain county matters, and they have power to fine and imprison for contempt.

I. The criminal jurisdiction of justices in general and quarter-sessions is now defined by the 5 & 6 Viet. c. 38, which enacts "that after the passing of this Act neither the justices of the peace acting in and for any county, riding, division, or liberty, nor the recorder of any borough, shall at any session of the peace nor the adjournment thereof try any person or persons for any treason, murder, or capital felony, or for any felony which, when committed by a person not previously convicted of felony, is punishable by transportation beyond the seas for life, or for any of the offences mentioned under the 18 heads contained in the first section of the act. The second section provides that any judge of the supreme courts at Westminster, acting under a commission of oyer and terminer and gaol delivery for any county, may issue a writ or writs of certiorari or other process directed to the justices of the peace acting in and for such county, &c. or to the recorder of any court within the same county, commanding the said justices and recorder severally to certify and return into such

court of oyer and terminer, &c. all indictments and presentments found by such justices or recorder of which after the passing of this act will not have jurisdiction to try, and several recognizances, examinations, depositions relative to such indictments and presentments and, if necessary, writ or writs of Habeas Corpus may any person in the custody of any gaol or prison, charged with any such offence be removed into the custody of the gaol of the county, that such offence may be tried under the said commission. The fourth section empowers any court of general or quarter-session or adjournment of the peace to divide such court into two courts, which may sit apart for the better despatch of business, in any manner and subject to the conditions in this section mentioned.

Previously to the 6 & 7 Will. IV. c. 114, it was in the discretion of the magistrate before whom the depositions were taken, whether he would allow them to be inspected, even the party accused had no right to demand a copy of the depositions, though in cases of treason or felony he was entitled to demand a list containing the names of the witnesses for prosecution. But by that act s. 3 persons held to bail or committed to prison for any offence, are authorized to require and have, on demand, from any person who has the lawful custody, copies of the examinations of the witnesses respectively upon whose depositions they were held to bail or committed to prison, on payment of a reasonable fee for the same, not exceeding three pence for each folio of a copy, and subject to a proviso, that if such copies be not made before the day appointed for the commencement of the session at which the trial of the person or persons on whose behalf such demand is made is to take place, such person is not to be entitled to have any copy of such examinations of witnesses, unless the person to produce such trial be of opinion, that copies may be made and delivered without any material or inconvenience to such trial. The chairman is, however, authorized to postpone the trial on account of such delay in the examination of witnesses, and

raigned, and the trial proceeds in the same manner as at the assizes. If the prisoner be found not guilty, he is immediately set at liberty, unless there be some other matter before the court upon which he ought to be detained. If a verdict of guilty be returned, the sentence is pronounced by the chairman, such sentence, where the amount of punishment attached to the offence is not fixed, being first determined by the opinion of the majority of the justices present.

The sessions cannot be held without the presence of two justices at least; nor can they be adjourned by one justice, though two or more may previously have been present. Every act done as an act of sessions, before two justices have met, or after two have ceased to be present, is void.

The crown may grant a commission of the peace not only for an entire county, but also for a particular district within the county. In order, however, to exclude the interference of the county justices in the particular district, it is necessary either to introduce into the commission of the peace for the particular district a clause excluding the jurisdiction of the county magistrates, which is called a *ne-introustant* clause, or to grant a new commission to the county magistrates excluding the particular district. If the former, which is the usual course, be taken, the county magistrates may still hold their sessions within the particular district, though they can exercise no jurisdiction in respect of matters arising within the district.

Petty and Special Sessions.—A meeting held by justices for the transaction of magisterial business arising within a particular district which forms a subdivision of the county or district comprised in the commission of the peace, is called a *petty session*, and if the meeting be convened for some particular or special object, as the appointment of overseers of the poor, of waywardens, of examiners of weights and measures, &c., it is called a *special session*. A meeting of magistrates cannot legally act as a special session, unless all the magistrates of the particular division are present, or have had reasonable notice to attend.

Borough Sessions.—The Municipal Corporation Act (5 & 6 Wm IV.) directs that the recorder of a borough to which a separate quarter-sessions is granted under the provisions of that act, shall be the recorder of such court [Recorder]. The ordinary duties of magistrates' sessions to be performed by the recorder or the peace appointed by the crown to the city or borough. The recorder is required to hold a court of quarter-sessions once in every quarter of a year, or at other and more frequent times, if he think fit, or as the crown may direct. Borough quarter-sessions are, however, like county quarter-sessions, appointed to be held in particular times. In case of sickness or inability, the recorder is authorized, with the consent of the town council, to appoint a barrister of five years' standing as deputy recorder at the next sessions, if he is no longer in the borough, or if he is and of any deputy recorder, if he is not, may be opened, and adjourned, recognisances respite, by the recorder, but the mayor is not authorized to do any other judicial act. Where it appears to the recorder that the sessions are to last more than three days, he may appoint an "assistant barrister" of five years' standing to hold a court for the trial of such felonies and misdemeanors as shall be referred to him, provided it has been certified to him by the mayor and two aldermen of the council have resolved that so is expedient, and the name of the assistant barrister has been approved by a secretary of state.

Every burgess of a borough (or of a city), having a court of quarter-sessions (unless exempt or disqualified otherwise than in respect of property) to serve on grand and petty juries, members of the town-council, and officers of the peace, treasurer, and other officers of the borough, are exempt and are not to be called upon to serve on juries with the borough, and they and all the other persons in boroughs having separate quarter-sessions are exempt from liability to serve on petty juries at the county sessions.

Other matters required by

quarter sessions, and not expressly vested in the town-council, devolve the recorder, as the appointment of juries of weights and measures, &c. is impowered in a borough pool by a statute under 4 and 7 Will. 4 c. 105 may be tried at the borough for offences committed out of the borough.

Corporal jurisdiction, which, before the passing of the Municipal Corporation Act, was vested in any borough in which an assize of quarter sessions has since been held, is taken away by the 107th act of that year.

WATER. [Pook Laws.]
WIT, a place, according to Lard, where water issues, or, as is said by, "wite," whence the word water. The word has acquired into a proverbial sense. "The law of wit," an important branch of English law. According to that law, the superiors of the defences of the land of the sea, and against inundation of floods and of the free course of tide rivers, has been immemorially, the beginning of laws says Culla, of public concern and from early periods consideration under common law have from time to time passed by the crown, empowering to enforce the law on such soil.

Many statutes have been passed in waters. The first, according to Culla, is "Magna Carta," c. 24, provides for the taking down of

But the most important of these is Hen. VIII c. 6, commonly called Statute of Sewers, by which the law extended, explained, and settled. Statutes have been since passed, the most comprehensive is the 13 & 14 V. c. 24. From these two statutes, it is especially so that of Henry VIII and the Act books, the general powers must be ascertained. The 13 & 14 V. c. 24 does not affect any local Act for sewers either by county or district, &c. or any power of sewers in the county of Essex within ten miles of the Royal Highways except such as be within any stream of sewers of the county of Essex or any navigable river, canal, &c.,

under the management of trustees, by virtue of any local or private act, or any law, custom, &c. of Romney Marsh or Bedford Level.

The appointment of commissioners of sewers by the late Act is vested in the lord chancellor, the lord treasurer, and the two chief justices, or any three of them, of whom the chancellor must be one. Such as have not acted as commissioners before the passing of the statute of William IV must be possessed, in the same county or the county adjoining that for which the commission issues, of landed estate in fee, or for a term of 99 years, of 1000 yearly value, or of a term of 21 years, 10 of which are unexpired, of 2000 yearly value, or be held appurtenant to an estate of 2000 yearly value. He who corporate and abstract properties possessed of a landed estate of 6000 yearly value taxed to sewers may qualify an agent to act as commissioner, provided such agent is named in the commission. Persons named ex officio in any commission as mayor, &c., may act without any further qualification. Concurrently with every commission there issues from the crown, office a writ of decessus jurisdiction, addressed to a list of persons therein named, who are part of the commissioners named in the commission, and are bound to administer the oaths to the commissioners, previous to entering on office each commissioner takes an oath before these parties for the due performance of his duty, and that he is possessed of the requisite qualification. A commission continues in force for ten years from the date of it, and the laws, decrees, and ordinances made under it, notwithstanding the expiration of the commission, continue in force until they are repealed.

Commissioners may be appointed to act in any part of the kingdom of England and Wales or the islands within that kingdom. The English word is also said to be included within the kingdom of England. Each commissioner specifies the district to which it applies. The authority of the commissioners extends over the defences, whether natural or artificial, within the county of that sea, all rivers, water courses, &c., either navigable or entered by the tide, or which

directly or indirectly commanment with such rivers, &c. But they have no jurisdiction over any ornamental works situate near a house and erected previous to the Act of William IV., except with the consent in writing of the owner. They have power to repair and reform the defences, and to remake them, when decayed, in a different manner, if this can be done more commodiously. They may also cause rivers, &c. to be cleansed and deepened, and remove any obstructions, such as weirs, mill dams, and the like, which have been erected since the time of Edward I., or, if such ancient obstructions have been since increased, they may remove the increase. If any navigable river is deficient in water, they may supply it from another where there is an excess. But the object to be attained by all these acts must be of a general nature, and have for its purpose the furtherance of public general defence, drainage, or navigation. The commissioners have authority also to make and maintain new, and to order the abandonment of old works, and to determine in what way the expenses of the new works shall be contributed, but they cannot undertake any new work without the consent in writing of three fourths of the owners and occupiers of the lands to be charged. They may also contract for the purchase of lands where necessary to the accomplishment of their objects, the price of which, if not agreed on, must be determined by a jury summoned for that purpose. In them is vested the property in such lands, and in all the works, tools, materials, &c., of which they are possessed by virtue of their office. The commissioners have power to make general laws, ordinances, and provisions relating to matters connected with sewers in their district, as well as to determine in particular instances. These laws are to be in accordance with the laws and customs of Romney Marsh, in Kent, or "after their own wisdom and discretions." The mention of discretion occurs very frequently in the statute of Henry VIII., and would seem to vest, as it truth it does vest, a very large and undefined power in the hands of the commissioners. Notwithstanding, however, this reference

to their discretion, they have no power to do anything which is not both reasonable, and also in accordance with the laws of the land.

To accomplish the purposes for which they are created, the commissioners possess to a point a variety of powers called surveyors, collectors, &c., and they themselves, as well as their officers, when duly summoned, are competent to attend in any court of record. By their own report, or the report of their surveyors, they ascertain what old defences need repair, what new ones are necessary, what money or materials are required for such purposes. In any court, ten days' notice to the occupiers of lands within the district is required to attend, except in a case of emergency, when they may be summoned by two commissioners immediately. It is the duty of the commissioners to receive the receipt of the precept of the court, to summon a jury of twelve of the county to attend at the place before any charge can be laid, and the commissioners must further require, in pursuance of the precept, by whomsoever sworn on oath before them, where a defence is needed, or any remedy, and by whose neglect or default such things have occurred, and who are liable to contribute to the expenses of putting all in a proper state. The practical fundamental rule, which the liability of parties to contribute must be ascertained, is the distance of the land from the works. When a party has been found liable by a jury he is bound to contribute and is liable during the term of that commission. The liability of parties to contribute may arise by holding lands as condition, by custom, or prescription, or by agreement. If a man holds lands by covenant for himself, his heirs, and the lands descended to him are liable to the contribution, and also may be charged by reason of ownership of the land, &c., for repairs, or because they have the

order may be removed by certiorari into the Court of King's Bench, and there quashed; and the commissioners are fineable for contempt if they proceed after a certiorari has been allowed. But a certiorari cannot be demanded of right. It is within the discretion of the Court of King's Bench to refuse it, and the impropriety of the order must be made out very distinctly before a certiorari will be granted. Where the order is for repairs, and is made upon an inquisition before a jury who find that the party ought to repair, the court will not proceed in the matter unless the party charged consents to repair in the meantime. If it afterwards appears that he ought not to repair, he will be entitled to reimbursement, which may be awarded to him by the commissioners. An order which is good in part may be confirmed for so much, although it is quashed for the remainder.

An action may be brought against the commissioners for anything done by them beyond their authority. They may sue and be sued in the name of their clerk, who, nevertheless, may be a witness for them. (*Callis On Sewers*; 4 *Inst.*; *Comyns's Digest*, 'Sewers'; *Viner's Abr.*, 'Sewer.')

The sewers of the city of London and its liberties are under the care of commissioners appointed by the corporation, who were first empowered to make the appointment by the 19 Chas. II., c. 31, the act for rebuilding the city after the great fire. They were entrusted with this power by that Act for seven years only. A few years afterwards it was made perpetual; and by 7 Anne, c. 9, the commissioners of sewers for the city of London were invested within the city and its liberties with all the authorities possessed by the ordinary commissioners elsewhere. The Roman law (*Dig.* 43, tit. 12, 13, 14, 15, 21, 23) contains certain provisions as to public rivers, cuts for navigation, and private and public drains in towns (cloacæ).

SHERIFF, the Shire-Reve (seyr-gefe), from the Saxon word *reafan*, "to levy, to seize," whence also greve. The German word is *graf*. The gerefa seems to have been a fiscal officer. In the Saxon period he represented the lord of a district,

whether township or hundred; folk-mote of the county, and in each district he levied the lord's dues, and formed some of his judicial power. (*Pulgrave, Rise and Progress*, &c.) He was usually not appointed by the lord, but elected by the freeholders of the district, and, accompanied by four knights, was required to be present on the lord's court, as well as on the lord's, at the county court. In like manner a prince or king employed in the larger districts his gerefa or sheriff, who levied his dues, fines, and amercements to whom his writs were addressed, and exercised on his behalf regal authority in the shire, for the preservation of the peace, and the punishment of offenders. Over the courts-leet or viewfrankpledge, and (at least in the shire) the earl in ancient times, and since the Conquest instead of the earl) presided. It is difficult to determine how far the functions of the sheriff were concurrent with those of the earl, and how far derived from, the earl or earl of Saxon and Danish times. The confusion between these two offices has been increased by the translation of the Latin word *vice comes*, and the French into *vicomte* or *viscount* (of the earl), whereas certainly the sheriff's powers even in Saxon times were derived from the crown alone, and the *gerefa* in German was equivalent to the earl. That before and for a long time after the Conquest the sheriff had not been dependent of the earl, is an obvious fact, that in the circuit (town) made periodically (*Spelman's Glossary*, *Comes*) of his shire for the administration of justice (as the Saxon king made circuit of his realm), he was accompanied not only by the freeholders, but by the bishop, the earl, and barons, and noblemen were exempted from the sheriff's court by statute 52 Henry III. c. 1267).

Sometimes the shrievalty, by the crown, was hereditary, it was held for life, or for many years, and were sometimes more sheriffs in a county, the *peruna eborac* for

give up their profession, it would be wiser to unite several counties together, and employ lawyers with salaries equal to the full value of their whole time, to these enlarged districts. These various opinions were very actively discussed from ten to fifteen years ago, but it is now pretty clear that it is in the person of the sheriff-substitute, or permanent local judge, that the public look for the beneficial working of the system. In civil questions an appeal lies (without new pleadings) from the sheriff-substitute to the sheriff, but wherever the former is a sound lawyer and an industrious man, the privilege is seldom used. The salaries of the sheriff-substitute have lately been raised, according to a sound policy advocated by many of the most cautious and economical politicians of the country, they average at present about £50^l. The salaries of the principal sheriffs vary widely, but the whole amount of their aggregate incomes, as returned to parliament in 1843 *Parliamentary Papers*, 270, when divided by their whole number, gives 55^l to each. From the state in which the profession of the bar of Scotland has been for the past ten years, several of its members have been induced to accept the office of sheriff-substitute as vacancies have occurred. Formerly the office fell to country practitioners, who, not quite contented with the emoluments, eked them out by private practice, a state of matters seriously detrimental to the equal administration of justice. In some instances, even retired officers in the army or unprofessional country gentlemen were the best qualified persons who would undertake the office. By the Act of 1 & 2 Victoria, it was provided that no sheriff-substitute should act as a law agent, conveyancer, or broker. By the same Act it was provided that though the sheriff-substitute should continue to be appointed by the sheriff, he should not be removable, except with the consent of the lord president and lord justice clerk of the court of session. In terms of the same Act, the substitute must not be absent from his county more than six weeks in one year, or more than two weeks at a time, unless he obtain the consent of the sheriff, who must then

act personally or appoint another. It may be observed, for preventing some confusion & redundancy of the statute law to sheriffs may occasion to remember, that in one or two instances, that of Kirkcubright, the sheriff exercises the functions of sheriff and the steward. This descriptive origin to certain peculiarities of tenure which cannot be traced, and are subject to doubt. After the Reformation, the sheriff generally appointed commissioners for local commissariat districts nearly conforming with their jurisdictions, and in 1823 (4 Geo. 4) the commissariat function was to be merged in those of the sheriff.

The jurisdiction of the sheriff in Scotland does not extend to questions regarding heritable or real property, the 1 & 2 Vict. c. 119, jurisdiction questions as to nuisance or damage from the undue exercise of the property, and as to servitudes actually conferred on him. He is judge in actions which are of rights, or which are of a nature—for the purpose of deeds or legal proceedings, respects his jurisdiction extends to actions on debt or obligation, any limit as to the importance of interests involved. He does not sit with a jury, though it appears that the institution was formerly connected with civil jurisdiction of the sheriff authority by special statute to decide small debt cases, 1 r. c. the pecuniary value of the claim does not exceed a hundred pounds, 8^l. 6^s. 8^d. When he acts in the court, he makes circuits through the county, his ordinary court is by railway stations and other local administration special jurisdiction frequently conferred on him the clauses for taking lands he is appointed to act as presiding a jury is appointed to be so. By two Acts of the 1 & 2, c. 114 and 119, much of the clear up and render efficient the administration of the pro-

provisions are made for a statement of the object and nature of the transfer in the book of registry, and for indorsement on the certificate of registry, by which such consequences are prevented. Penalties to the like effect are made in the bankrupt act, 6 Geo. IV. c. 16, § 72.

In order to complete a title by capture, it is necessary that a sentence of condemnation should be obtained in a court of the nation by whom the capture has been made. This court decides according to the general law of nations. [Prize.]

Where repairs have been done, or necessities supplied to a ship, the legal owners, upon proof of their title to the ship, are *prima facie* presumed to be liable. But this presumption may be rebutted by proof that they were done or supplied under the authority and upon the credit of another. The question to be decided, in order to determine the liability is, upon whose credit the work was done or the necessities supplied. If a ship is let out for hire, the owners are no more liable for the work done by order of the hirers, than a landlord of a house would be for work done by order of his tenant. Like observations are applicable with respect to the liability of mortgagees and charterers.

A variety of privileges of trade are confined to ships either of British build, or taken as prizes in war, &c. The first statute passed with a view to effect this object was 26 Geo. III. c. 60. Other statutes, 4 Geo. IV. c. 41, 6 Geo. IV. c. 110, and 3 & 4 Wm. IV. c. 55, were subsequently passed for the same purpose. The object of the legislature has been to confine the privileges of British ships to ships duly registered and possessing a certificate of registry. No ship is to be considered a British ship unless duly registered and navigated as such. There are some exceptions from this enactment: 1, British coast vessels under 15 tons burden, and manned by British subjects navigating the coasts and rivers of the United Kingdom or of the British possessions abroad; 2, British coast vessels owned and manned by British subjects, not more than 10 tons burden, employed in fishing or the coast trade about Newfoundland, Canada, &c., and, 3, Ships

built at Honduras, which, circumstances, are entitled to be registered in the registry of a ship is not equally consequence of non-registration of a ship on the privilege of a British ship can be registered elsewhere than in the United Kingdom or in some of its colonies, or as forfeited for breach relating to the slave trade, also wholly belong to British who reside within the British or are members of some British or agents for some house trade in the United Kingdom. A ship may come to be a vessel of British ships by a decree of a court for benefit in consequence of being a vessel, by repair to the amount in a foreign country, or a vessel which she left in possession, and the repairs for her return. Every ship to be divided into 14 equal individuals or partnerships registered as owner or of than a sixth part. Properly generally are the officers the spot in question, are the purpose of making the granting certificates of owners. The registry must be made at the port to belong, which is that port where the owner resides. Oath required by the act states the name, occupation of each owner, and the which he holds, the name of the ship and of the name and place of her build, the name of the owner, her tonnage, and a verbal description of her in which the back of the certificate names of the owners, and shares held by each. If a ship cannot afterwards be transferred, it must be a vessel, which, we see the e

made by the owners who employ him; and in either case they or the master are liable in respect of these contracts. If the charter-party is made in the name of the master only, it will not support a direct action upon it against the owners. Still if the contract is duly made, and under such circumstances as afford either direct proof of authority or evidence from which such authority may be inferred, the owners may be made responsible either by a special action on the case or by a suit in equity. The master can also render the owners liable for repairs done and provisions and other things furnished for her use, or for the money which he has expended for such purposes. In this case also the remedy of the creditor is against the master, unless by express contract the owners alone are rendered liable, and also against the owners. A party who has done the repairs upon a ship has a right to retain the possession of it until his demands are paid; but if he gives up possession, he is on the same footing as other creditors. When, however, the ship is abroad, and the necessary expenses cannot otherwise be defrayed, the master has the same power which the owners or part-owners to the extent of their shares under all circumstances have, to hypothecate the ship and freight as security for debts contracted on behalf of the ship. The contract of hypothecation is called a contract of bottomry, by which the ship upon its arrival in port is answerable for the money advanced, with such interest as may have been agreed on. [Bottomry.] By such hypothecation the creditor acquires a claim on the ship. When the claim has been created by the master abroad, it may be enforced by suit in the Admiralty, but if the ship has been hypothecated by the owners at home, the parties can only have recourse to the common law or equity courts. The Admiralty and courts of equity will recognise the interest of the assignee of a bottomry bond, though at common law he cannot sue in his own name. When money is lent on bottomry, the owners are not personally responsible. The credit is given to the master and the ship, and the remedy is against them only. Still if a party is not content with such security, the master may also render

the owners liable. If the money by the bond are not repaid, a writ must be made to the Court of Admiralty founded on the instrument and an affidavit of the facts, and a warrant issues to arrest the persons interested are cited before the court, which then orders what is to be done. If the necessary money cannot be raised to defray the ship and freight, the master may also sell part of the cargo to meet it.

The whole of the services due to his employers; he may occupy himself on his own account, the money earned by him is paid to him by the employers, they can retain it, and he is not to give information to the owners of the matter which it may be made known to.

The 7 & 8 Vict. c. 112, an Act to amend and consolidate the laws relating to Merchant Seamen, keeping a Register of Seamen, and the 5 & 6 Wm. IV. c. 19, and such act repeals the acts then in force, and except so far as relates to the establishment, maintenance, and management of the office called 'The General Office of Merchant Seamen,' the act contains the regulations for the hiring of seamen, their rights, &c.

3. *Of the Carriage of Goods by Sea.* The contracts for the carriage of goods are conveyed in a charter-party, or charter-party, and for their conveyance by a charter-party is 'a contract by which an entire ship, or some part thereof, is let to a merchant for the conveyance of goods on a determined voyage to one or more places.' A charter-party is a written instrument, generally not necessarily, under seal, executed by the owners or the charterers and the master of the ship, or by the merchant or his agent. The word charter-party is derived from two words *charta* and *part*, because the duplicate agreement were formerly written on a piece of paper or parchment, and divided by cutting the word or figure *to* or *by* each

[illegible]

" The merchant usually covered and secured the ship within time.

owner of the ship has always a
goods in the ship, when the
is paid before it in the de-
place of destination of the
even as Lord Lenterden, him-
ed a Bismarck and Albatross,
is nothing to show that the
of the goods was to precede the
of that line. All difficulties
ended by inserting a clause in
the party which shall state
it is meant that the owner

should have a lien upon the lading for his freight and expenses. The owner does not lose his right of lien by depositing the lading in a public warehouse, provided he gives notice that it is to be detained until his claim for freight is satisfied.

When a ship or a principal part of it is not let out by charter party, the owners contract with several merchants respectively for the conveyance of their goods. A ship so employed is called a general ship. The terms of the contract appear from the instrument called a bill of lading. Bills of Lading.

The master has authority over the passengers as well as over the crew. A passenger may quit the ship, but while he remains on board, he is bound in case of necessity to do work that is required for the service of the ship and to fight in her defence. If he thwarts the master in the exercise of his authority, or otherwise misconducts himself, he may be put under restraint or imprisoned. If a passenger feels himself aggrieved by the manner in which he has been treated, he may bring an action against the master, and it will be for the jury, under the direction of the judge, to say whether he has any ground for complaint. In addition to this general right of action, several statutes have been passed to regulate the conveyance of passengers. The 14 Geo. IV. c. 116, relates to ships carrying passengers from ports in the United Kingdom to places out of Europe, and not within the Straits of Gibraltar. It regulates the proportion of passengers carried to the tonnage of the ship, provides security for the seaworthiness, cleanliness, &c., and proper stowage of the ship, for the presence of a surgeon and medicines, for the delivery of a list of passengers to the collector of customs at the port of departure, and attaches penalties to a violation of the regulations which it contains. Ships in the service of the crown, or the post-office general, or the East India Company, or bound to the Newfoundland fisheries or the coast of Labrador are excepted from the operation of the act. As to the statutes concerning passengers who emigrate, see

EMIGRATION, p. 431 The 5 & 6 Wm. IV. c. 53, subjects the master to a penalty in cases of his improperly landing passengers at any place not contracted for, or wilfully delaying to sail, and provides for the maintenance of the passengers for 48 hours after their arrival at the destined port. The 4 Geo. IV. c. 84, regulates the carriage of passengers between Great Britain and Ireland. If a passenger fails to pay his fare, the master or owners have a lien on his luggage for the amount. It is the duty of those who have undertaken to convey, to do every thing and be provided with everything necessary for the safe and expeditious accomplishment of the voyage, and if, through their failure to perform these duties, any damage results to the merchant, they will be answerable for it. At the commencement of the voyage the ship must be sea-worthy, tight, staunch, and sufficient, and properly equipped with all necessary tackle. The ship must be also provided with a master and crew competent to command and work her, and also with a pilot when necessary, either from circumstances or from the law of the country. After the goods are loaded, they must be properly guarded, if they are stolen while the ship is lying in some place within a country, the master and owners are responsible.

It is the duty of the master, unless in case of any usage which relieves him from such duty, to provide things necessary for the sailing of the vessel, and to stow away the goods so that they do not injure each other, or suffer from the motion or leakage of the ship. The master must procure and keep all documents, papers, certificates, &c., required by the authorities in respect of the ship and cargo, and he must abstain from taking or keeping on board contraband goods or false papers. He must wait during the time appointed for loading the vessel, and, if required, also during that appointed for discharging. He must pay the charges and duties to which the ship is subject. For statutes 3 and 4 Wm. IV. c. 12, and 1 and 2 Vict. c. 115 contain the enactments relative to what is necessary to be done in respect of the coast-guard regulations by ships carry-

ing goods from the United Kingdom beyond seas. When all things are prepared, the voyage must be commenced as soon as the weather is favourable. At the commencement of the voyage the master is bound, without delay, to take on board, or to dispatch to the port of destination. But stress of weather, the appearance of enemies or pirates, or the presence of any urgent necessity, will justify him in breaking through this rule, and he ought to do so for the purpose of securing another ship which he finds in imminent peril or distress.

If the ship is lost, or the goods injured during a deviation, without any of the grounds of justification, the owner and master will be answerable for the loss to the merchant, even if it does not appear to have been a necessary consequence of the deviation. If the ship, during the voyage, is so damaged that she is unable to proceed without repairs, the master may detain the cargo if not of a perishable character, till the repairs are made. If the cargo is of a perishable kind, he ought to tranship or sell it, as may appear the most beneficial course. He must, in all cases, where the circumstances require it, exercise a due diligence in transhipping the cargo, and, for instance, when the ship is wrecked, or in imminent danger.

Hypothecation of a cargo, i. e. the hypothecation of a ship, is "a pledge and immediate change of possession." The party to whom the goods are hypothecated immediately acquires a right of possession of them from the owner, who advances a loan paid at the same place and time. This power of the master under circumstances of urgent necessity to hypothecate the goods is a power exercised with great circumspection, and the exercise of it can only be justified when it is consistent with what would have been the conduct of a prudent and able man under the circumstances. Where goods have been hypothecated to a merchant or merchant, or the owner of the ship at its destination, the owner has the option either to pay for the goods, or to sell them, or to return the goods to the merchant, or to return the goods to the owner of the ship at that place. During the voyage the

is bound to take every possible care of the cargo, and to do all things necessary for its preservation and he must answer for all loss or damage which may be sustained for all things which in port have been accepted by the cargo of skill, attention, and diligence. When the voyage is completed the master must see that the ship properly stored, and all things done at sea to her which are required by the laws or usages of the country. The Act of 1804, 4 Wm. IV. c. 62, contains regulations relative to customs to which it is necessary to conform in this country. Upon payment of freight and production of bills of lading, the cargo must be without delay delivered to the parties entitled to receive it. In the case of a general ship, the cargo is then to be for the master before delivery. Bills of lading from the merchants that they will pay their shares of average after the loss has been adjusted. [AVERAGE.] The freight due on any goods is not to be paid the master may detain the goods at any part of them. The loss may be determined either on board ship or in any other safe place.

When the master is compelled by an act of parliament, to land the goods at any place or wharf he does not thereby lose the possession of the goods, and consequently does not lose whatever rights they may have to detain them. If goods are sold by the custom house officers before the freight is paid, the master is entitled to receive the first proceeds of the sale as a part of the freight. In foreign countries, where any accidents are incurred to freights or interfere with the objects of the voyage or may cause the parties to the contract to feel themselves aggrieved by the conduct of any other, it is customary to draw up a narrative of the circumstances before a public notary. His certificate is added to the bill of lading, and is admissible in evidence, and as it would mean, on behalf of the parties by whom it is made, in our courts it is not admissible in their behalf, but only, being against them.

When the master and owners operate as one to the master and owners for non-compliance with their contract. The act of "negligence" is understood to mean those ac-

idents over which man has no control, such as "lightning, earthquake, and tempest." The "perils of the sea," interpreted strictly, apply only to the dangers caused merely by the elements, but these words have received a wider application, and a regulated case the jury, after hearing evidence as to the facts which prevail among merchants will determine what interpretation has been intended to be given to them. Jurists have determined that the taking of ships by pirates is a consequence of the perils of the sea, and the vessel has been the same where the loss was caused by collision of two ships without any fault being attributable to those who navigated either of them, and also where the accident was caused wholly by the fault of those on board another ship. But all cases in which the loss happens by natural causes are not to be considered as arising from the perils of the sea. If the ship is placed in a dangerous situation by the carelessness or negligences of the master, and is consequently lost, this is not a loss from the perils of the sea, although the violence of the elements may have been the immediate cause of it. If a ship is reasonably sufficient for the purposes of the voyage, the master will not be liable for a loss arising from the perils of the sea because a ship might have been built stronger or able to resist them. By the 25 Geo. III. c. 26, owners are relieved from losses proceeding from fire, and also from the robbery, theft, or embezzlement of "gold, silver, diamonds, watches, jewels, or precious stones," unless at the time of shipping them their quantity and value are made known in writing to the master or owners. The "contract of price and value" is understood to mean a fully existing contract, not one which is anticipated, however reasonably or honestly. By the civil law, and also by the ancient common law of England, the owners, in case of their being liable for any loss to the shippers, were responsible to its full amount. By the laws, however, of most nations their responsibility is now limited to the value of the ship and freight. The first statute which was passed on the subject was 7 Geo. IV. c. 17, which was followed by the 25 Geo. III. c. 26, and

the 53 Geo. III. c. 159 supplied some deficiencies in the former statute, limiting the responsibility still further than the first statute had done. The last statute applies only to registered ships, and as to them may be considered as containing almost all the law upon the subject. By this act the responsibility is limited to the value of the ship and freight. It contains also provisions for the distribution, by means of an application to a Court of Equity, of the recompense due to the several parties entitled, where more than one claim, and directions as to the mode of calculating the value of the ship and freight. It does not extend to vessels employed solely in inland navigation, and none of the acts apply to lighters or gabbers. In cases where ships receive injury from collision with each other, the maritime law, which is acted on in the Court of Admiralty, differs in one respect from the law of England. Where the collision has occurred without any fault on either side, as, for instance, from a tempest, each party must bear the injury which he has sustained. Where it happens wholly from the fault of one ship only, her owners are liable, as far as the value of the ship and freight, to which, by 53 Geo. III. c. 159, their liability is limited, for the amount of injury caused by their own conduct. Thus far the laws are in accordance with each other. If the collision has been caused by the faults of both ships, then, according to the law of England, each party must sustain his own loss. But by the maritime law the loss occasioned is after computation divided equally, and the owners of each ship sustain half.

By 1 & 2 Geo. IV. c. 75, s. 52, where damage has been done by a foreign ship, a judge has power to order the ship to be arrested, until the master, owner, or consignee undertake to become defendant in any action for the damage, and give security for the damages and costs sought to be recovered.

The merchant must use the ship only for lawful purposes, and not do anything for which it may be forfeited or detained, or the owners made liable for penalties. In case of any violation of the agreement, by employment of the ship for purposes

other than those contemplated, or failing to perform the terms as to sailing, &c. the amount of compensation, in case of dispute, is determined, as the circumstances of the case may require, by a jury. The words *primage and avrage*, which appear in the bill of lading, mean, the first, a small sum paid to the master; the second, as there used, certain charges varying according to the usage of different places, for towing, bunkage, &c.

When an agreement for carriage is expressed in the general form, or when there is no actual agreement, but is implied by law from the circumstances of the case, there results from it a duty upon the master and owners, first, to deliver the goods at the place of destination; whether the ship is hired by the voyage or by the month. It is only by the due performance of this duty that they can entitle themselves to the payment of freight. The parties may, however, express in the contract that the payment of all or part of the freight may be made before ceasing the course of the voyage. Although perhaps in such case the word freight is used in a sense which does not properly belong to it, strictly speaking it means only money accruing for the conveyance of goods in consequence of their delivery at the place of their destination. Where a provision is made by the contract for payment of freight at the place of shipment the question has arisen whether the meaning of the parties was that the sum should be paid at all events on delivery of the goods on board, whatever might afterwards befall them, or whether it was merely to point out the place of payment at which the freight should become due by reason of the arrival of the goods at the port of destination. In all such cases the intention of the parties must be interpreted by the jury from the words and circumstances of the contract, and the usage of the place where it was made. The same doctrine will apply to cases where money has been advanced by the merchant, and it is disputed whether the money is to be considered as a loan or part payment of the freight. The owners will not lose the right to freight by a mere interruption or suspension of the voyage and caused by their own fault, as by exposure and

upon them. But if the ship has been wrecked, and the goods are saved, and afterwards conveyed to the place of their destination, the merchant may abandon them and is not bound to pay the freight if any expense of salvage has been incurred. If in the case of a general ship, or where, though a ship is chartered the hire for her is to be paid at so much per ton &c. the merchant is bound to pay the freight of such goods as may be delivered on, though they form a part only of the whole cargo. Where the whole or principal part of the ship is lost in the voyage without reference to the quantity of goods included and a part of the goods are afterwards lost by perils of the sea it seems to have been held that no freight will be due for the remainder.

There is some doubt however, whether this doctrine would be followed unless such a conclusion arose from the construction of the agreement between the parties. If the ship, without any fault in the master or owners, becomes unable to complete her voyage and the merchant takes the goods at some other place than the place of destination, he is bound according to the mercantile law to pay hire for the portion of the voyage which has been performed. "The principle which establishes the owner's right under such circumstances to freight for a portion of the voyage has been admitted in the courts of common law in this country but that right is not arising out of some law contract between the master and the merchant either expressly made or to be inferred from their conduct." In the latter case there being no direct means of ascertaining the intention of the parties they must be ascertained from the circumstances of the case connected with reference to the general principle which obtains in the mercantile law. In doing this it is obvious that the degree of benefit derived to the merchant must be taken into consideration, as well as the amount of time lost, and expense incurred by the owner, and, therefore, when it is said that freight is to be paid according to the portion of the voyage performed it must not be understood that time and space are the only measures

for ascertaining the portions of the freight payable.

If the master unnecessarily sells the goods, and so prevents their being forwarded to the whole freight and the owner cannot recover except for the goods which are retained to the extent of the value of the goods without any allowance for freight. Where a portion of the cargo only has been perished the merchant cannot be allowed to have compensation for freight for that portion since he has accepted the goods at the place of their destination. The principles upon which the *Case of Adams*, which possesses an authority over the ship and cargo interests, differ from those of contracts of common law. That case requires an equitable jurisdiction and where no contract has either been made or can be implied, applicable to the existing circumstances, "consideration must be paid to parties as well as to the relation of interests which has especially taken place, under a state of facts out of the contemplation of the contracting parties." Lord Mansfield in the case of the *Principe* is expressed as follows, *Ad Hap. 236*. "If a ship has actually never commenced the voyage the owners are not entitled to any payment whatever, although they may have incurred great expenses in equipping her, and though her failure may render the voyage an attemptation to a voyage lost or in some sort of thwart. When the contract of hiring is for a voyage and the hire is so much to be paid weekly, &c., during the time the ship is employed, if by the terms of the contract the whole forms one entire voyage no freight is due unless the ship returns home even though she may have delivered her cargo at the destination. But if the voyage is not one entire voyage, freight will be due for the delivery of the cargo at the respective ports."

Notwithstanding that reasonable compensation which is given as a reward to the owner of a ship for his cargo from loss by perils of the sea, which may be considered salvage, or recovery thereof after capture which may be called a prize. There is no fixed amount of cargo applicable to all cases. What is reasonable

incorporated company. Formerly the Royal Exchange Assurance Company and the London Assurance Company were the only companies for insuring ships, the legislature having given them a monopoly as against all except individual insurers. This monopoly has been abolished by 5 Geo. IV. c. 114. A great proportion of the business connected with the shipping insurance of this country is transacted at Lloyd's underwriters' establishment in the Royal Exchange, London. Insurers are commonly called underwriters, from the circumstance of their writing at the foot of the policy their names and the portion they are severally willing to take of the amount for which the merchant desires to insure.

The form of policy usually adopted is of ancient origin, and rather obscure in its phraseology, but most of its terms have a quoted a certain meaning from judicial interpretation, and it is therefore found convenient to retain them.

The ordinary form is found in treatises on the law of shipping.

The conditions of the policy may be varied according to the particular agreement between the parties.

The words in the policy, "the said ship and goods and merchandises shall be valued at," make this a "valued policy," that is, a policy which enables the merchant, in case of loss, to recover the stipulated amount without proof of the value of the things insured. A policy without words expressive of an agreement between the parties as to value, is called an open policy, and leaves the question of value open.

The subjects of marine insurance are, generally speaking, whatever is put in risk, as the ship, tackle, provisions, &c., cargo, freights, profits, and money lent at bottomry or respondentia. As for the purpose of stimulating the seaman to exert himself to the utmost for the safety of the ship, a rule has been established, that he is entitled to no wages unless the adventure be completed and the ship reach freight, so an insurance which would nullify that rule is declared illegal. A seaman therefore cannot insure his wages.

The subject matter of the insurance, whether the ship only, or goods, or

freight, must be insured, and so must the voyage and places at which the ship is to sail and end.

The words "lost or not lost," have the effect of rendering the underwriter liable, though the loss occurs before the insurance is entered, provided the loss were not the fault of the assured.

Perils of the sea signify those caused by winds and waves, &c. If the ship is run aground, it is considered a peril of the sea, and signifies the voluntary throwing, or of any part of the cargo, for any justifiable reason, as of them falling into the harbour, or to save the rest of the cargo. Barratry denotes any fraud in the master or seaman towards the ship, or cargo. Thus barratry may be committing away with the ship, by delaying the voyage with a leak, or by doing any act to the prejudice of the insurance.

The loss or damage is ascribed to the proximate cause of the ship is charged in her risk by sea-damage, and is considered overtaken by an enemy, if this is considered a loss by sea.

The memorandum at the bottom of the policy is inserted to protect the underwriter from marine liability for perishable articles, as to which it is often difficult to say whether the damage was occasioned by natural causes, the indemnity of the underwriter extending to the latter of causes only. "Without average, unless general" protects the underwriter from making good a short of a total loss of the article. A damage to any part of itself is called a particular average, to which the underwriter is not liable. The memorandum of the policy, if it extends, takes place where the loss occurs, as the mast, or where part of the cargo has been thrown overboard for the common benefit, in which case the property sacrificed is not a total loss, and the underwriter is not liable for it.

United Kingdom or from any other of his majesty's dominions, on the same terms as in British ships, provided it shall first be proved to his majesty and the privy council that the foreign country in whose favour such order shall be made shall have placed British ships in its ports on the same footing as its own ships. Since that time reciprocal treaties of navigation have been made with the following countries: Prussia, Denmark, Hanover, Oldenburg, Mecklenburg, Greece, Bremen, Hamburg, Lubeck, States of La Plata, Colombia, Holland, France, Sweden and Norway, Mexico, Brazil, Austria, Russia, and Portugal. That with the United States of North America, as already observed, dates from 1815.

Since the passing of the Reciprocity Acts the ship-owners have always cried out that those measures have ruined *their* interest. But they cannot possibly have injured any body else. On the contrary, the consumer has had the advantage of merchandize being carried at the cheapest rate that competition could produce. The following facts, however, show that since the Reciprocity Acts passed there has been an enormous increase in British shipping—a fact which proves that the investment of money in ships has been at least as profitable as in other branches of industry.

BRITISH SHIPPING.

Period from 1804 to 1823 under the Navigation Act and Restrictive System.

	Tonnage.
1804 . . .	2,218,570
1823 . . .	2,506,760

Increase . . . 238,190
or 10 per cent.

Period from 1823 to 1844 under the Reciprocity Acts and Free Trade System.

	Tonnage
1823 . . .	2,506,760
1844 . . .	3,637,231

Increase . . . 1,130,471
or 45 per cent.

It further appears that the total tonnage of British and foreign ships entered *inwards* and *outwards*, exclusive of ships

in ballast, in the years 1804 and 1845, as follows:—

	Tonnage.
1802 . . .	3,572,000
1845 . . .	6,411,000

Increase . . . 2,839,000

	Tonnage.
1802 . . .	1,023,000
1845 . . .	2,711,000

Increase . . . 1,688,000

It has been asserted that the increase of British shipping is due to the numerous voyages of passenger-boats, especially of the Channel, but this can not be, those vessels clear in ballast, not carry cargoes, and are not included in the foregoing statement. It appears then that all parties, British and foreign, have gained by the Reciprocity Acts, so far as the mere shipping is concerned, but the ship-owner has gained most. He must not forget the advantage to the merchant, manufacturer, &c. who have gained by the cheaper carriage of commodities, which is a necessary consequence of competition and free trade.

A further examination of the subject will not only confirm all its details, but more conclusively the great benefit which British shipping and industry have derived from the Reciprocity Acts. (Porter, *Poor Laws*, sections iii & iv p. 158. See also article in the 'Economist' of March, 1846, also repeated in the 'Lancet' newspaper, March 1846.)

Seamen in the Royal Navy—It is stated by the Admiralty on the authority of Porter's *practice of impressing and power to the admiralty for the purpose of very ancient date, and uniformly continued by successive governments to the present time, and includes it to be a part of the law.* An improvement in the king's commission the present government belongs to the Admiralty, in the 'Observations

§ 33, 34, 35, shows that the power to exercise the power of impressment for the land service also, for his own private service, as of old times. The legality of the practice cannot be defended on the ground of the safety of the country. It has been shown that seamen cannot be impressed by law. The general rule is that all persons are liable to impressment. There is no legal distinction as to the question of seamen, and who may be

impressed. Seamen are induced to enter the service by higher wages, and foreign seamen who shall have a ship of war, a merchant ship, or for two years during a war, shall be liable to impressment. The 7 & 8 Vict. c. 67, enacts that overseers of the poor, or any other persons having the authority of the poor, in and for the parish, township or the United Kingdom, may put to apprentices in the British merchant service, any boy who is twelve years of age and of sufficient health and with his consent, who, or his parents or or are chargeable to the parish by which district, &c., or who has been taken from the parish in which he was born, the apprenticeship is to last till such boy attains the age of twenty-one years or shall have served seven years as an apprentice, or shall first marry. Section 61 of the act provides for turning over, or commencing, of parish apprentices, who have been bound to a service in the merchant service, to be employed in the merchant service, to be employed in the merchant service. It is provided in the case of apprentices in the merchant service under § 52, that their remaining unexpired apprenticeship. Section 61 provides that all British ships of the burden of one hundred upwards, except pleasure boats, shall have apprentices on board, or their tonnage, as in this provided. All whole apprentices between the age of twelve and under seven years of age, and be duly bound for at least seven years. Section 60 provides, nothing in this Act, or in any

agreement contained, shall prevent any seaman or person belonging to any ship or vessel whatever from entering or being received into the naval service of her majesty nor shall any such entry be deemed a desertion from the ship or vessel, nor shall such seaman or other person thereby incur any penalty or forfeiture whatsoever of wages, clothes, or effects, or other matter or thing."

The commerce of Great Britain gives regular employment to a vast body of seamen, and the habits and occupation of a large number of people in the sea coast give them a robust and a capacity for sea service. With the great increase of the commercial navy of Great Britain, which has taken place of late years, and the prospect of still greater increase of commerce by the destruction of trade being removed, we may always reckon on a sufficient number of seamen in the commercial navy to make up the deficiency in the royal navy in case of a sudden war. The apprenticeship system also is well devised to keep up a regular supply of young seamen. It is probable that ten or twenty thousand men might be at once drawn from the commercial navy for the royal navy in any emergency by offering them better wages, and thus the necessity of impressment might be removed. The amount of inconvenience that may be sustained by the merchant service by the withdrawal of a great number of seamen at once, is the same, whether the seamen are impressed or go as volunteers, but to the inconvenience arising from the actual withdrawal of seamen by impressment must be added the loss and inconvenience to the merchant service which may arise from seamen keeping out of the way in order to avoid being impressed.

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in Ingulphus, the monk of Croyland, who wrote about a century and a half after the reign of that king. As yet however, the biographer of Alfred, does not mention this most important fact: and, in truth, shires were certainly known before Alfred's time. Sir Francis Palgrave shows them to be identical, in many cases, with Saxon states, thus Kent, Sussex, Essex, Norfolk, Suffolk, Middlesex, and Surrey were antient kingdoms. Lincolnshire under the name of Lindesse, was an independent state, and Worcestershire (*Hwiccas*) was the jurisdiction of the bishop of Worcester. Another class of shires were formed out of large divisions, either for the sake of more easy management when the population of the particular district had increased, or for the sake of giving territory to an earl. Yorkshire was part of the kingdom of Deira, and Derbyshire of Mercia. Lancashire was made a county subsequently to the Conquest. On the other hand, some shires have merged in others. Wiltshire-combeshire is a part of Gloucestershire and in the act for abolishing the palatine jurisdiction of the bishop of Durham (6 and 7 William IV, c. 19, s. 1) no less than five shires are mentioned, viz Crickshire, Bedlingtonshire, Northamptonshire, Allertonshire, and Islandshire, which have long ceased to possess, if indeed they ever had, separate jurisdictions.

The uses of the division into shires may be learnt by an enumeration of the principal officers in each—1, the lord lieutenant, to whom is entrusted its military array [LORD LIEUTENANT], 2, the custos rotulorum, or keeper of the rolls or archives of the county [CUSTOS ROTULORUM], such as the county court rolls—this officer is appointed by letters patent under the great seal, and is now always identical with the lord lieutenant, except in counties of cities, where the high steward is usually custos rotulorum—3, the sheriff, or, as he is often called, the high sheriff [SHERRIFF], 4, the receiver-general of taxes, who is appointed by the crown, and accounts to it for the taxes levied within his district—he also receives the county rates, and disburses them as the magistrates in quarter sessions, or as any other competent authority,

direct, 5, the coroner [the justices of the peace, mission extends only to the and who, assembled in jurisdiction over many offences over the county since 7, the under-sheriff, who by and performs nearly all sheriff, and 8, the clerk an officer (almost always appointed by the custos whose duty it is to file and cognizances, returning the fested, to the sheriff to be NIZASCI] he likewise presides in the trial of indictments to be tried at assizes, and in general acts of the justices in quarter sessions—this list of officers may be knights of the shire, or of the county in parliament.

County rates are assessed by the justices in quarter sessions according to estimates laid [COUNTY RATE.]

The judicial tribunals in a shire are the assize court, Assize court, presided over by the lord and Magna Charta, a court the hundred courts, and [COURTS LEFT]

The principal subdivision in the hundred, a district of origin bore relation rather to the family than to any uniform limits. Mr Hallam considers it to have been a district inhabited by a family, and that a district prevailed in the northern and southern counties, in proof of which he contrasts Sussex, which contained 44 hundreds, and Dorsetshire, which contained 26, with Yorkshire, which contained 44, and Lancashire, which contained 26, and Lancashire, only counties north of the Trent, in Scotland, this subdivision is called a wapentake. Kent is divided into five lathes, which are all hundreds. That the hundred was known among the Saxons is proved by the fact that it is mentioned in the time of the Romans, as is inferred, but not expressed, in Tacitus. De *taxa* *centi* *parentis* *defect* *locant*—*Definitur* *et* *nam*

the party to whom they apply. The mere speaking of the defamatory words instead of the writing of them is that which constitutes the difference between Libel and Slander [LIBEL.]

Slander is of two kinds— one, which is actionable, as necessarily importing some general damage to the party who is slandered, the other, which is only actionable where it has actually caused some special damage. The first kind includes all such words as impute to a party the commission of some crime or misdemeanour for which he might legally be convicted and suffer punishment, as where one asserts that another has committed treason, or felony, or perjury. It also includes such words spoken of a party, with reference to his office, profession, or trade, as impute to him malpractice, incompetence, or bankruptcy; as of a magistrate, that he is partial, or corrupt, of a clergyman, that "he preaches lies in the pulpit," of a barrister, that "he is a duce, and will get nothing by the law;" and so on, or that tend to the dishonour of a party, as where it is said of one who holds lands by descent, that he is illegitimate. Where a party is in possession of lands which he desires to sell, he may maintain an action against any one who slanders his title to the lands, as by stating that he is not the owner. With respect to the second kind of slander, the law will not allow damage to be inferred from words which are not in themselves actionable, even although the words are untrue and spoken maliciously. But if, in consequence of such words being so spoken, a party has actually sustained some injury, he may maintain an action of slander against the person who has uttered them. In such case the injury must be some certain actual loss, and it must also arise as a natural and lawful consequence of speaking the words. No unlawful act done by a third person, although he really was moved to do it by the words spoken, is such an injury as a party can recover for in this action. Thus, the loss of the society and entertainment of friends, of an appointment to some office, the breach of a marriage engagement caused by the slanderer's statement, are injuries for which a party may recover damages.

But he can have no action because of the sequence of such statement of sons, to use an illustration of Leborough's, "have thrown his horse-pood by way of punishing supposed transgression."

With respect to both kinds of it is immaterial in what way it is conveyed, whether by direct or obliquely, as by question, or exclamation. But the actual words must be stated in the declaration upon the failure to prove them the plaintiff will be non-suited: it is not sufficient to state the meaning and inference of them. They will be interpreted in the way in which they are commonly understood where they are susceptible of two meanings, one innocent, the other defamatory: the innocent interpretation is to be preferred. Where words are equivocal in their meaning or their application, a parenthetical explanation may be added in the declaration. This is called an *innuendo*. It may be employed to explain and define, but not to enlarge or alter the meaning or application of the words spoken. The declaration must state the publication of the words, that is, that they were spoken in the hearing of some third person, or that they were spoken maliciously. Two cannot bring an action of slander, the case of husband and wife, or of a man and his wife, is an injury done to the trade, nor can an action be brought against two, except a husband and wife, where slanderous words have been spoken by the wife. Where the knowledge of extraneous facts is necessary to the application of the slander, they must be stated in the introductory declaration.

In answer to an action of slander the defendant may plead that the words spoken were true, or that they were spoken in the course of a trial of justice, and were pertinent to the issue, or formed the subject of a communication, as where a publication *bona fide* states what is to be true relative to the character of a servant, or makes known facts for the purpose of honestly warning in whom he is interested.

in the case for Defamation," &c.

SLAVE, SLAVERY, SLAVE

The word slavery has various meanings, but its complete meaning is that of an individual who is in the power of another or others. Such is the condition of the "serf" or "villein" among the Romans and Greeks, and that of the slaves in Eastern Asia, and that of the negro slaves in parts of Africa and America. A similar form of this condition exists even of the serfs in Russia and that of a similar class in the four other parts of Asia. The Polish serf is bound to the land he is born on, he may be sold with it, but cannot be sold away without his consent. He is obliged to perform four days a week for his lord, who allows him a piece of land, for cultivation. He can marry, and his children are under his authority till they are of age. He can be his lord's stock and savings at his death. His life is protected by the law. Some of the Greek and Roman serfs had some of these advantages, only that the negro slave of our own time was bought and sold in the market and was transferred at his owner's will. He could acquire no property; he had no wife or master, and the whole of his labour belonged to his owner, who could inflict corporal punishment upon him. He could not marry. He could be sold with a woman, he could be separated from his wife and his children at any time, and the woman and children sold. The distinction therefore between the slave and the serf is, that the serf is the subject of the noble, but the slave is the subject of the master. The slave is a kind of serf, but these conditions are to have no legal consideration in the law and in the market. In the market we treat only of the real value of the slave and modern times.

Slavery properly so called, appears to have been in the earliest ages, the result of a large proportion of mankind in every country, and thus was the case in the earliest times, when it has been generally abolished by all Christian states, at least in Europe. The condition of slavery

was a great difference between ancient and modern society. Slavery existed among the Jews. It existed before Moses, in the time of the Patriarchs, and it existed, and still continues to exist, in many parts of Asia. The "serfs" mentioned in Scripture history were mostly slaves. They were strangers, either taken prisoners in war or purchased from the neighbouring nations. They and their offspring were the property of their masters, who could sell them, and inflict upon them corporal punishment, and even in some cases could put them to death. But the Hebrews had also slaves of their own nation. These were men who sold themselves through poverty, or they were indentured servants, or men who had committed a theft, and had not the means of making restitution as required by the law, which was to double the amount, and in some cases much more. If a thief had not the means of the debtor was liable to the claims of the creditor. But his right extended also to the debtor's wife and children. Moses regulated the condition of slavery. He drew a wide distinction between the alien slave and the native servant. The latter could not be a perpetual bondman, but might be redeemed, and if not redeemed he became free on the completion of the seventh year of his service. Again, every fifty years the jubilee caused a general emancipation of all native servants.

The sources of the supply of slaves have been the same both in ancient and modern times. In ancient times as prisoners were reduced to slavery, being either distributed among the officers and men of the conquering army, or sold. When the early Phoenicians and Carthaginians sailed to the islands of the Tyrrhenian and Adriatic Seas, it was a frequent practice with them to kill the adult males of the aboriginal population, and to keep the women and children. As however dealing in slaves became a profitable trade, they were sold, and this was as far as an improvement. Another source of slavery was the practice of kidnapping men and women, especially young persons, who were seized on the coast, or enticed on board by the crew.

of piratical vessels. The Phœnicians, and the Etruscans or Tyrrhenians, had the character of being men-stealers, and also the Cretans, Cilicians, Rhodians, and other maritime states. Another source was, sale of men, either by themselves through poverty and distress, or by their relatives and superiors, as is done now by the petty African chiefs, who sell not only their prisoners, but their own subjects, and even their children, to the slave-dealers. Herodotus (v. 6) states that some of the Thracian tribes sold their children to foreign dealers.

Among the Greeks slavery existed from the heroic times, and the purchase and use of slaves are repeatedly mentioned by Homer. The labours of husbandry were performed in some instances by poor freemen for hire, but in most places, especially in the Doric states, by a class of bondmen, the descendants of the older inhabitants of the country, resembling the serfs of the middle ages, who lived upon and cultivated the lands which the conquering race had appropriated to themselves, they paid a rent to the respective proprietors, whom they also attended in war. They could not be put to death without trial, nor be sold out of the country, nor separated from their families; they could acquire property, and were often richer than their masters. Such were the *Charites* of Crete, the *Penestæ* of Thessaly Proper, and the *Helots* of Sparta, who must not be confounded with the *Periæci*, or country inhabitants of Laconia in general, who were political subjects of the Doric community of Sparta, without however being bondmen. In the colonies of the Dorians beyond the limits of Greece, the condition of the conquered natives was often more degraded than that of the bondmen of the parent states, because the former were not Greeks, but barbarians, and they were reduced to the condition of slaves. Such was the case of the *Kallikoi* or *Kallikurios* of Syracuse, and of the native *Bithynians* at Byzantium. At Heraclea in Pontus, the *Marsandyni* submitted to the Greeks on condition that they should not be sold beyond the borders, and that they should pay a fixed tribute to the ruling race.

The Doric states of Greece purchased slaves, but Athens and other commercial states imported a number, who were mostly from barbarous countries. The slave in Attica has been variously estimated to numbers, and it varied considerably at different periods. It appears that in Athens, at least in its greatest power, they were more numerous than the free. A fragment of Hyperides in Suidas (*τὸ ἀνελπιστότατον*), the slaves appears to have been 150,000, who were employed in the mines of Attica alone, poorer citizens had a slave for household affairs. The wealthy had as many as fifty slaves to attend to, and some had more. We read of philosophers keeping ten slaves, private slaves belonging to the state, public slaves belonging to the state. The latter were employed on board the fleet, in the docks, and in the construction of buildings and roads. At the battle of Arginusæ there were many slaves in the Athenian fleet, and emancipated after the battle. Chæronia the Athenians gave to their slaves who served in the fleet.

Slaves were dealt with like property: they worked either on their master's account or on their own; in the latter case they paid a cost to their master, or they were hired as servants or workmen. Some served in the navy of the state, receiving payment for the service. Mines were worked by slaves, whom belonged to the lessee, and the rest were hired from slave proprietors, to whom they paid a rent of so much a head, besides providing for the maintenance, which was no great matter, as they worked in chains and died from the effect of the atmosphere. Nicæus the elder sold slaves to the mines of Laurium several hundreds, when the contractors for an obolus murdered their guards, and

proprietor. Until the latter period of the republic, slaves and even freedmen were not admitted into the ranks of the army. In cases of urgent public danger, such as after the defeat of Cannæ, slaves were purchased by the state and sent to the army, and if they behaved well, they were emancipated. (Livy, xxi. 57, and xxiv. 14 16.)

They were not, however, denied the rites of burial, and numerous inscriptions attest that monuments were often erected to the memory of deceased slaves by their masters, their fellows, or friends, some of which bear the letters D. M., "Dis Manibus." Slaves were often buried in the family burying-place of their masters. The "sepulchretum" or burial-vault of the slaves and freedmen of Augustus and his wife Livia, discovered in 1726 near the Via Appia, and which has been illustrated by Bianchini and Gori, and another in the same neighbourhood also belonging to the household of the early Cæsars, and containing at least 3000 urns with numerous inscriptions, which have been illustrated by Fabretti, throw much light upon the condition and domestic habits of Roman slaves in the service of great families.

With regard to the classification and occupations of slaves, the first division was into public and private. Public slaves were those which belonged to the state or to public bodies, such as provinces, municipia, collegia, decurie, &c., or to the emperor in his sovereign capacity, and employed in public duties, and not attached to his household or private estate. Public slaves were either derived from the share of captives taken in war which was reserved for the community or state, or were acquired by purchase and other civil process. Public slaves of an inferior description were engaged as rowers on board the fleet, or in the construction and repair of roads and national buildings. Those of a superior description were employed as keepers of public buildings, prisons, and other property of the state, or to attend magistrates, priests, and other public officers, as watchmen, lictors, executioners, watermen, scavengers, &c.

Private slaves were generally distributed into urban and rustic; the former

served in the town houses, and the latter in the country. Long lists of the duties performed by slaves of various kinds are given by Pignorius, 'De Officiis eorum apud Veteres Ministros,' Edinburg, 1674; Popma, 'De Operibus eorum,' ibid., 1672; and Blair, 'An Inquiry into the State of Slavery among the Romans,' Edinburgh, 1813, which is a very useful little book. For all the necessities of domestic life, agricultural handiwork, and for all the luxuries of a refined and licentious society, there was a corresponding demand for slaves. Large sums were often paid for slaves of certain peculiar talents, some of which we should consider at least useful. Eunuchs were also much valued, the practice of emasculation was borrowed by the Romans from the Asiatics, among whom it was as early as the time of Herodotus, and it continued to the time of Domitian, who forbade it; but eunuchs continued to be imported from the East. A eunuch, who was sometimes sold for 2000 sesterces, or about 160 pounds. Dwarf slaves were also in great request. Antoninus paid for a pair of dwarves 200 sesterces, or 160 pounds. Actors and actresses and dancers were very dear, as well as females of unusual attractions, who were likely to bring in great gains to their owners by prostitution. A good cook was valued at 10 talents, or 772 pounds. Medical men, grammarians, amanuenses, and school-keepers, and short hand writers were in considerable request. With respect to ordinary slaves, the price varied from fifty to twenty pounds, according to abilities and other circumstances. After a victorious campaign, when the captives were sold at once on the purpose of prize-money, to the dealers who followed the armies, the price sank very low. Thus in the Lucullus in Pontus (Plutarch, c. 14) slaves were sold for four or two shillings and sevenpence, but the same slaves, if brought to a regular market, would fetch a much higher price. Home-born slaves, distinguished by the name of "verna," in contrast to "servi empti," or "venales."

dicta, Census, or by Testamentum. The *Lex Aelia Sentia*, as already mentioned, laid various restrictions on manumissions. Among other things it prevented persons under twenty years of age from manumitting a slave except by the *Viaticum*, and with the approbation of the *Comitium* which at Rome consisted of five senators and five Roman equites of legal age (*puberes*), and in the provinces consisted of twenty *decuriones*, who were Roman citizens. (Census, l. 20, de.) The *Lex Aelia Sentia* also prohibited manumissions void which were effected in fraud of creditors or defraud patrons of their rights. The *Lex Fufia Caninia*, which was passed about A.D. 7, limited the whole number of slaves who could be manumitted by testament to 100, and when a man had fewer than 500 slaves, it determined by a scale the term so that he could manumit. This law only applied to manumission by testament. (Census, l. 42, &c.)

In the earlier ages of the Republic, slaves were not very numerous, and were chiefly employed in household offices or in mechanics in the towns. But, for the conquests of Rome spread beyond the confines of Italy the influx of captives was so great, and their price fell so low, that they were looked upon as a cheap and easily come by commodity, and treated as such. The condition of the Roman slave, generally speaking, became worse in the later ages of the republic, and many of the emperors, even some of the worst of them, interfered on behalf of the slave. Augustus established courts for the trial of slaves who were charged with serious offences, intending thus to supersede arbitrary punishment by the masters, but the law was not made obligatory upon the masters to bring their slaves before the courts, and it was often evaded. By a law passed in the time of Claudius, a master who exposed his sick or infirm slaves forfeited all right over them in the event of their recovery. The *Lex Petronia*, probably passed in the time of Augustus, or it is ascribed to Nero, prohibited masters from compelling their slaves to fight with wild beasts, except with the consent of the judicial authorities, and on a sufficient case being made out against the slave.

Domitian forbade the *munuscula*. Hadrian suppressed the use of private prisons for the confinement of slaves, he also restrained from selling their slaves or gladiators, or to brothel-keeping, a punishment, to which condemnation of a judge (*idea*) was an ancient law adopted in the Athens and by which the slave should be satisfied of a slave's treatment by his owner, and gave the owner to sell him to whom he pleased. The law, however, was to have two exceptions in the measure of harshness in the treatment as a proper ground for punishment. Septimius Severus forbade subjection of slavery. The Emperor Constantine placed the value of a slave on a level with that of a free man, and Justinian confirmed this, including within its provisions slaves who died under a *curatorem*. Constantine made no distinction in his laws as to the forcible separation of a slave from his family by sale or property. One of the laws of Justinian, was repealed by Justinian. The Church also interfered for the protection of slaves by threatening excommunication of owners who put to death a slave without the consent of the bishop, allowing asylum was necessary to save a slave from the anger of masters. A law of Theodosius authorized a slave who had taken refuge in a church to call for the judge, that he might be restored to his master, or if refused might be investigated. Humanity became the predominant notion in the Roman world, in various ways a benefit was upon the condition of the slave, however interfering at least with the institution of slavery. Even the laws of Theodosius which abolished the master's power of death over his slave were repealed by Valentinian (De Urbanis).

so that in the progress of time, the century masters still insisted on their right to put their slaves to death. Mac-John (Satan) & others of the interferences, though sometimes with great eloquence, could not wipe out the recollection of the cruel and unjust treatment of the negroes, as they were getting of more value, the practice of putting them to death still existed, for in the Indian States (to wit) it is as common to put slaves to death as it is in the Christian States. In the latter, it is not so much the case, but still takes place in some of the most civilized nations. In the former, it is not so much the case, but still takes place in some of the most civilized nations. In the latter, it is not so much the case, but still takes place in some of the most civilized nations.

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through the traffic of slaves, the Christian captives of Europe, and the Mohammedan captives of the East, were carried off by the latter to the Mohammedan States of the Crusades. The Christians

supplied the markets of the Christians with slaves purchased from the Mohammedan States, which were located on the Atlantic. However, as personal slavery and the traffic in slaves continued in all Mohammedan States, Christian captives taken by Mohammedans were sold in the markets of Asia and Southern Africa, and were condemned to be sold in within one or two years, when Christian slavery had been abolished in Barbary, Egypt, and the Ottoman Empire. By the interference of the Christian powers, the consumption of Greece, and the conquest of Algiers by the French.

With the discovery of America a new demand for slaves and slave trade arose. Christian nations purchased African negroes for the purpose of employing them in the mines and plantations of the New World. The natives of America were too weak and too much to undergo the hard work which their Spanish taskmasters exacted of them, and they died in great numbers. In 1492, a Spanish vessel arrived with a party of negroes before the court of Spain, the cause of the American slave trade, and the origin of the system of the transportation, by which they were distributed in lots like cattle among their new colonies. It was necessary for the authorities to be more particular in order to satisfy the colony, and it was suggested that negroes from Africa, a more robust and active race than the American Indians, be introduced to them. It was stated that an African negro could do as much work as two Indians. The Portuguese were at that time possessed of a great part of the coast of Africa, where they mostly obtained by force of arms a considerable number of slaves. The trade in slaves among the nations of Africa had existed from time immemorial, it had been carried on in ancient times, the Carthaginians used to supply the slave markets of Carthage, Tyre, and Egypt with their slaves which they took by force of arms. The demand for slaves by the Portuguese in the African States, gave the trade a fresh direction. The Portuguese and the interior made predatory incursions into each other's territories, and sold those

captives, and sometimes their own subjects, to the European traders. The first negroes were imported by the Portuguese from Africa to the West Indies in 1503, and in 1511 Ferdinand the Catholic allowed a larger importation. These, however, were private and partial speculations; it is said that Cardinal Ximenes was opposed to the trade because he considered it unjust. Charles V., however, being pressed on one side by the demand for labour in the American settlements, and on the other by Las Casas and others who pleaded the cause of the Indian natives, granted to one of his Flemish courtiers the exclusive privilege of importing 4000 blacks to the West Indies. The Fleming sold his privilege for 25,000 ducats to some Genoese merchants, who organised a regular slave-trade between Africa and America. As the European settlements in America increased and extended, the demand for slaves also increased, and all European nations who had colonies in America shared in the slave-trade. The details of that trade, the sufferings of the slaves in their journey from the interior to the coast, and afterwards in their passage across the Atlantic—their treatment in America, which varied not only according to the disposition of their individual masters, but also according to different colonies,—are matters of notoriety which have been amply discussed in every country of Europe during the last and present centuries. It is generally understood that the slaves of the Spaniards, especially in Continental America, were the best treated of all. But the negro slaves in general were exactly in the same condition as the Roman slaves of old, being saleable, and punishable at the will of their owners. Restrictions, however, were gradually introduced by the laws of the respective states, in order to protect the life of the negro slave against the caprice or brutality of his owner. In the British colonies, especially in the latter part of the last century and the beginning of the present, much was done by the legislature; courts were established to hear the complaints of the slaves, flogging of females was forbidden, the punishment of males was also limited within certain

bounds, and the condition of population was greatly ameliorated. The advocates of emancipation, the principle of slavery as being cruel and unchristian; and they also to experience to show that being cannot be safely trusted to the mercy of another.

But long before they attempted to emancipate the slaves, the philanthropists were directed to the slave traffic, which desolately wholly prevented its advancement, and encouraged the maltreatment of the negroes in the colonies, by an unlimited supply, and made the planter's interest to keep them in the natural way. The attention of mankind was first effectually directed to the horrors of this trade by Clarkson. His labours, with the zealous men, chiefly Quakers, who early joined him, prepared the way for Mr. Wilberforce, who brought the subject before parliament in 1789. Though, after his notice, the motion to his accidental illness, was carried forward by Mr. Pitt, Mr. Wilberforce was throughout the great parliamentary leader in the cause, powerfully aided in the country by Thomas Clarkson, and others, as Richard Phillips, George Harrison, William Allen, all of the Friends, Mr. Stephen, who had been in the West Indies as a barrister, Z. Macaulay, who had been in Sierra Leone, and had also been in Jamaica. A bill was first carried in by Sir W. Dolben to regulate the slave trade until it could be abolished in some degree diminished the horrors of the middle passage. But the abolition was repeatedly defeated in 1804, when Mr. Wilberforce carried the bill through the Commons, but it was thrown out in the Lords, and was again lost even in the Commons. Meanwhile the capture of the colonies, especially the Dutch colonies, war, frightfully increased the number of the trade, by opening these to the British capital, and at the whole importation of slaves into the colonies amounted to nearly 60,000 of which about a third was

At length in 1805, all prohibited the slave-trade of colonies. Next year the Convention of London forbade vessels to sail through ports of subjects from carrying supplies either foreign or conquered colonies. And by Mr Fox the last year in public debate, in 1806, pledging the total abolition of the trade in, and this was on 12th Jan. adopted by the Lords of Great Britain. The Convention of London forbade the slave-trade, and being passed, passed the royal assent March 1807. The Act forbidding from and after 1807 but as it only gave a pecuniary penalty, and something more was done a trade the gains as great as to cover all. In 1808 the House of Commons unanimously resolved itself every next session present "and during law and to that year the slave-trade put in fifteen years transport great with hard labour relating to the slave-trade and it was for the first and punishable offence within the Admiralty. In 1809 this was made a crime for life by the 10th number of capital laws the Slave Act of 1809 has entirely removed in this traffic subjects have engaged in which capital has been employed has been some offence has been some offence.

Wellington, while anti-slavery, was not very active in the reformed doctrine. Abolition of the traffic in French West Indian in several portions of England his attempts. The

first French law abolishing the slave-trade was a decree issued by Napoleon on the 21st of Mar. 1802 during the 11th year of his reign after his return from Elba. It prohibited any vessel from sailing out for the trade, either in the ports of France or in those of her colonies, and the introduction or sale in the French colonies of any negro obtained by the trade, whether carried on by French subjects or foreigners. The influence of Great Britain was again strenuously exerted at the peace in 1802, to obtain the co-operation of foreign powers in the abolition, and the object has been steadily kept in view by this country, and every opportunity of forwarding it taken advantage of, down to the present time. The consequence has been that now nearly all the powers in Europe and America have passed laws or entered into treaties, prohibiting the traffic.

In the General Treaty signed by the representatives of Austria, Prussia, Great Britain, Portugal, Russia, Sweden, Spain, and Sweden, assembled in Congress at Vienna, on the 21st of June 1814, was inserted, as having the same force as if actually inserted a Declaration, signed at the same place by the plenipotentiaries of certain of the powers, on the 21st of February preceding, to the following effect: "that, seeing several European governments had already, &c. &c. &c. come to the resolution of putting a stop to the slave-trade, and that, successively all the powers possessing colonies in different parts of the world had acknowledged, either by legislative acts or by treaties or other formal engagements the duty and necessity of abolishing it, and that by a separate article of the late treaty of Paris (21st May, 1814), Great Britain and France had engaged to unite their efforts at this Congress of Vienna to induce all the powers of Christendom to proclaim its universal and absolute abolition, the plenipotentiaries of the Congress now declared in the face of Europe that they were animated with the most sincere desire of continuing in the most prompt and efficient manner, of this moment, all the means at their disposal, and that this Declaration was received by the plenipotentiaries of Austria, Prussia, Great Britain,

tain, Prussia, and Russia, assembled in Congress at Vienna, in resolutions adopted in a conference held on the 26th of November, 1822, in which, however, it is admitted that, "notwithstanding this declaration, and in spite of the legislative measures which have in consequence been adopted in various countries, and of the several treaties now in force, there still persisted between the maritime powers, in a common, solemnly proclaimed, has continued to this very day—that it has gained in a twenty what it may have lost in extent—that it has even taken a still more monstrous character, and more dreadful from the nature of the means to which those who carry it on are compelled to have recourse."

The following will be found, we believe, to be a correct and complete list of the treaties and conventions for the suppression of the slave-trade that have been made by this country with other states since the present peace.

In 1814, with France, by Additional Articles to the Definitive Treaty of Peace signed at Paris 10th May, engaging that the slave-trade should be abolished by the French government in the course of five years; and with the Netherlands, by treaty of London, 15th August. Its abolition had also been stipulated in the Treaty of Kiel, concluded with Denmark on the 14th of January.

In 1815, with France, by Additional Article to Definitive Treaty signed at Paris 2th November, by which the two powers having mutually, in their respect to dominions prohibited, without restriction, their subjects and subjects from taking any part whatever in the slave-trade, engaged to send their efforts, through their ministers at the courts of London and Paris, for its entire and definitive abolition; and with Portugal, by Treaty signed at Vienna 22nd January (ratified by Treaty of Alliance concluded at Munich January 10th February, 1816), in which the Prince-Regent of Portugal had declared his determination to adopt the most efficacious means for bringing about a gradual abolition of the slave-trade; and that it was lawful for any of the subjects of the crown of Portugal to purchase slaves, or to carry on

the slave-trade, from any part of the coast of Africa to the northward of the tor

In 1817, with Portugal, by Treaty signed at London 24th July, prohibiting universally the carrying on of the slave-trade by Portuguese vessels, or by persons in the dominions of the British Majesty; and stating that, in other circumstances, with Spain, by subsequent Article, signed at London 1st September, referring to a treaty to be adopted "as soon as the crown of the slave-trade, for the crown of Portugal shall be abolished, and in consequence of the same," with Spain, by Treaty signed at Madrid 22nd September, by which the Catholic Majesty engages that the slave-trade shall be abolished in all her colonies, dominions, and possessions, by May 1823, and that no vessel shall not be lawful for any colony of the crown of Spain to purchase or to carry on the slave-trade, or part of the coast of Africa to the equator, or to vend or export any part not in the dominions of the Majesty; and by which the same under which the trade may be carried on in other circumstances are given; and with Russia, King of Moscow and its dependencies, by Treaty signed at St. Petersburg 21st October.

In 1818, with the Netherlands, by Treaty signed at the Hague, specifying restrictions under which the reciprocal right of visitation was to be exercised.

In 1820, with Madagascar, by Treaty signed at London 11th October.

In 1822, with Denmark, by Treaty signed at Altona 1st November, with Netherlands, by Treaty signed at London 1st December, and with Prussia, by Explanatory Article signed at London 1st December.

In 1823, with Netherlands, by Treaty signed at London 1st January, with Portugal, by Treaty signed at London 1st January, and with Madagascar, by Treaty signed at Amsterdam 1st January.

In 1824, with Sweden, by Treaty

[illegible]

with them by Treaty of
the 23d November 1801
provision of that they be given
the acquisition of the five
the the other power

with France by Convention
in November, stipulating that
France would cede some
of its colonies to the United
States in return for a special

with Lewis, by Appleton
edition of Facts, 27th March)
stating the right of visitation
conferred on them.

with Denmark by Treaty of 1814, they occasionally the
the Danish Majesty to the
between Great Britain and
1814 and 1815 with the
Treaty of Paris, with Annexes
the result of that power to
Denmark and with Heinrich
and Arthur signed at Paris
for respecting power of land
found in vessels with the

with Spain, by Treaty of 18 June, abolishing slave
trade of Spain to and from
Brazil in all parts of the
Empire, is a special stipu-
lation with Brazil by Addi-
tional Treaty of 1824, signed
15th June.

with decency, by observation
persons with No. 1000, was
one of the group: Duke of
Bristol, Countess of Carlisle
with House I was by 1 all
most at the group, the, then
and with the, the
and Arden, a group of 1000,
to House in February.

with Karpman of the Two
 Five Nine against an Asian
 ex-conservative, international
 Majority in French (center
 of the)

The Hospital of Women in
 South Carolina. The first
 was the mother in law.

on the 24th of March in the incorporation of
supra said Athens, expressing the de-
sires and wishes of the people to protect the
free the production of a law passed by
the county court declaring the said
land engaged in that land, to be parcel
and parcelled with that and to be
an actual right of possession with
the by the county court at Athens on the
January, with January by the county
court at Athens on the 1st July with
August on the 1st October, by the county
court at Athens on the 1st May and
with the county court at Athens on the
1st of December.

1. The first step is to identify the problem. This involves understanding the current situation and the goals that need to be achieved.

The boat with Keener, his family consisted of three with Keener, which he was the first to reach, gave me a considerable quantity of money with which to buy myself and my children with clothing and with American provisions and fuel, the latter amount of fuel I got from the

In 1846, with the United States of North America, by a treaty signed at Washington, the Americans acknowledge the equality of all mankind as the basis of Africa's union. This treaty says that all men have the same rights and are respectively and separately free, equal, capable, and obligate as to each other to contribute to the improvement of the whole. The said treaty says that no man should do to each other as would do to self and to separate upon man's own mind and to separate wrong as with the American, European and with the Arabian of Egypt.

On this date, the report by County
attorney at law, for 1911.

[illegible]

the law as well as the Government in the

socage has long ceased to be applied to the two latter, socage and free and common socage now mean one and the same thing.

Besides fealty, which the tenant in socage, like every other tenant, is bound to do when required, the tenant in socage, or, as he was formerly called, the socager or sockman, is bound to give his attendance at his lord's court baron, if the lord holds a court baron either for a manor [MANOR] or for a seignior in gross. A tenant in socage may hold by fealty only (Littleton, § 130), for fealty is a service. If the tenant in socage holds by fealty and certain rent to pay yearly, &c., the lord shall have of the heir of his tenant as much as the rent amounts unto which he payeth yearly. This payment on the death of a tenant is a relief. Many of these rents are of little value, as a pound of pepper, a number of capons or hens, or a pair of gloves (Littleton, § 128).

Both forfeiture and escheat are incident to tenure in socage, as they were also to tenure by knight's service [ESCHEAT.] In that species of socage tenure which is called gavelkind [GAVELKIND] there is no forfeiture.

Wardship is also incident to this tenure. But this incident is not, as formerly in knight's service, a benefit given to the lord, but a burthen imposed on the infant's next friend of full age, who must however be a person not capable of inheriting the estate upon his young kinsman's death.

By the mutual consent of lord and tenant, socage tenure might have been converted into tenure by knight's service, or tenure by knight's service into tenure in socage. It sometimes happened that the tenant held by knight's service of a lord who held in socage and, more frequently, that a tenant held in socage of a lord who held by knight's service.

In particular districts some of the incidents of tenure by knight's service were by custom annexed to the tenure in socage. Thus in the diocese of Winchester the lord claimed the wardship and marriage of his socagers.

Before the abolition of feudal burthens by the Commonwealth, confirmed upon the Restoration by 12 Car. II. c. 24, te-

nants in socage were bound to pay upon every 20*l.* of annual value, as aid for making the lord's son a knight, and the same for marrying the lord's only daughter. This tenure was also subject to the payment of fines upon alienation.

By the above statute, the provisions which were extended to Ireland by the Irish act of 14 & 15 Car. II. c. 10, tenure by knight's service was abolished and all lands, with the exception of ecclesiastical lands held in free alms [FRANKALMOIGNE], were directed to be held in free and common socage, which, with a limited exception in favour of lands held in frankalmoigne, is now the universal tenure of real property throughout England and Ireland, and those counties which have been settled by the English.

It is true that a large portion of the soil of all those countries is held by leaseholders, and in England also by copyholders, but the freehold of the land is by leaseholders and copyholders is their lords or lessors, who hold that freehold by socage tenures. (On socage tenures, see Coke on Littleton, § 117, and the notes in Butler's edition.)

SOCIAL CONTRACT, or ORIGINAL CONTRACT. Blackstone (Com. i. p. 48) writes as follows: "Though Society had not its formal beginning from any convention of individuals actuated by their wants and fears yet it is the *sense* of their weakness and imperfection that keeps mankind together that demonstrates the necessity of union, and that therefore is the social natural foundation as well as the basis of civil society. And this is what mean by the original contract of society which though perhaps in no instance has ever been formally expressed at first institution of a state, yet natural and reason must always be understood and applied in the very act of associating together—namely, that the whole should protect its parts, and that every part should pay obedience to the will of the whole, or in other words, that the community should guard the rights of individual member, and that, in return for this protection, each individual should submit to the laws of the community without which subordination of all it

conjoined their force he meant (by the term Original Contract), this is acknowledged to be real, but being so ancient, and being obliterated by a thousand changes of government and princes, it cannot now be supposed to retain any authority. If we would say anything to the purpose, we must assert that every particular government which is lawful, and which imposes any duty of allegiance on the subject, was at first founded on consent and a voluntary compact. This is the real question. Those who found what they very incorrectly term "lawful government" on an original contract, must show us the contract. So far Hume's objection is good, and whether there was an original contract or not is immaterial. The question is, what was the origin of any particular government? Those who maintain that any particular government originated in a contract of all the persons who at the time of the formation of the government, were included in it, cannot prove their case. Those who deny the original contract can show that many particular governments have originated "without any pretence of a free consent or voluntary subjection of the people."

But an original contract, such as Hume admits, is as far removed from the possibility of proof as the origin of any particular government by virtue of a contract, nor have we any record of savage men associating to form a government. If one set of savage men did this, others would do it, and there must have been many original contracts, which contracts are the remote origin of all particular governments; but inasmuch as that origin of any particular government, which we do know, was not made by contract, and did not recognize the original contract, such government is unlawful, as those who contend for the theory of an original contract would affirm, or ought to affirm, if they would be consistent. Thus the practical consequences of the doctrine of an original contract, if we rigorously follow them out, are almost as mischievous as the doctrine that every particular government was founded on an original contract. It is true that the theory of an original contract of savage people being

the foundation of government is a harmless absurdity, when at the same time we deny that any parties to government has so originated, provided we admit that such particular government is not to be resisted simply because it is founded on contract. Those who maintain that all existing governments are on no other foundation than a contract affirm that all men are at liberty to say that they owe no allegiance to a prince or government, unless they are bound by a promise—that they give up their natural liberty for some advantage—the sovereign promises him these advantages, and if he fails in the execution, has broken the articles of engagement and has freed his subjects from all obligations of allegiance. "Such according to these philosophers, is the foundation of authority in every government—such is the right of resistance granted by the subject" (Hume). This is a full exposition of the consequences which follow from the theory of every government being founded on contract.

Governments, as we now see, do exist in various forms, and they exist by virtue of their power to maintain themselves. This power may be more force in the government and fear in the people. Combined with the power of the government there may be the opinion of a majority in favour of the government, of a number sufficiently large and united to control the rest, and this opinion may be founded either on the advantage which such number or majority conceive they derive from the actual form of government, or the advantage which they and all the rest are supposed to derive from such government. The opinion of a considerable number may be strong enough to overthrow a government, or maintain it, but in either case it is not the opinion of all.

The real origin of government lies in the constitution of man's nature. Man is a social animal, and cannot live in a state of nature, but he is naturally a social animal, that is, a family. The smallest element to which we can reduce a nation. He who requires not to live in a state of nature, must be a hermit or a philosopher. (Politik. i. 2). The nature of man is

In some cases the State has aided in the formation of such associations, and has given them greater security for carrying their purposes into effect, as in the case of savings' banks and friendly societies. Sometimes the State grants a charter of incorporation to associations, which in many respects enables the body to transact its matters of business more conveniently. Sometimes the State perceives that it can extract some revenue from persons who associate for particular purposes, as in the case of fire-insurance offices, for all persons who insure their property in them (except farming stock, &c.) must pay the state 200 per cent. on the sum which they pay to secure their property against the accidents of fire. [INSURANCE, FIRE.] If a man should think it prudent to invest a part of his annual savings in a life insurance, the state makes him pay a tax on the policy. A great many associations of individuals for benevolent, scientific, and such like purposes are left to direct their associations according to the common principles of law.

If lists were made of all the associations in Great Britain and Ireland, including those which are purely commercial, with an account of their objects, income, and applications of income, we should have the evidence of an amount of activity and combination that was never equalled before. How far it might be prudent to give to all associations for lawful purposes greater facilities for the management of their property and the making of contracts, subject to certain regulations as to registration of their rules and approval of their objects, is a matter well deserving of the attention of the legislature.

SOLDIER is a term applied to every man employed in the military service of a prince or state, but it was at first given to such persons only as were expressly engaged for pay, to follow some chief in his warlike expeditions. Cæsar mentions a band of 600 men called "soldum," who bound themselves to attend their leader in action and to live or die with him (*De Belli Gallico*, iii. 22), but it does not appear that they served for pay. By some the word has been thought to come from "*solidus*," the name of a coin under the

Roman empire, which may have been received as the payment for the service.

In the article **ARMY**, a sketch is given of the origin of standing armies in France and in England. The present article treats of the condition of the European soldier in modern times. Little change seems to have taken place in the pay of the English soldiers between the times of Edward III. and Mary. During the reign of this queen the daily pay of a captain of heavy cavalry was 4*s.*, and of a cavalry soldier 1*s.* 6*d.* The pay of a captain of light cavalry was 4*s.*, and of a soldier 1*s.* The pay of a captain of foot was 4*s.*, of a lieutenant 2*s.*, of an ensign 1*s.*, and of a foot soldier 8*d.* a horse soldier and a huckbutter, on horse back, each 1*s.* daily. In the times of Louis XIV. and Charles I., the pay of officers was a little raised, but that of private foot soldier was still 8*d.* per day; during the civil wars the pay of the soldier was 9*d.*, but in the reign of William II. it was again reduced to 8*d.* At that time the pay of a private drummer was 2*s.* 6*d.* and that of a private dragoon was 1*s.* 6*d.* including in both cases tax allowance for the horse. The pay of the private soldier in later times has by no means been raised in the inverse ratio of the value of money.

While armour was in general use the common soldiers of England were distinguished only by scarfs or by badges, which were impressed the arms of the several leaders, but in the reign of Henry VIII. something like a uniform was introduced, and it appears that the colour of the upper garments was then generally white; the soldiers in the king's particular service only had on their coats a representation of the cross of St. George. However, on an army being raised in 1544, the soldiers were ordered to wear coats of blue cloth bordered with red. White coats marked with red crosses continued to be the uniform of the troops during the reign of Queen Mary, but in the time of Elizabeth the infantry soldiers wore cassock and long trowsers, both of which were of Kentish grey; the cavalry was furnished with red cloaks reaching down to the knee and without sleeves, blue coats, with breeches of the same colour.

[illegible]

I have the honor to acknowledge the receipt of your letter of the 10th inst. in relation to the matter of the proposed amendment to the Constitution of the State of New York, and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

five years and was continuously
withheld from the public eye
in the first six years, the first of the
three is given and the other two are
a well represented - comprehensive picture
as far as possible, for the months which
the film

[illegible][illegible]

the men are obliged, as part of their duty, to attend, and which is generally furnished with a library for their use. The library and school are formed and supported by the subscriptions of the officers, and both have been found to contribute greatly to the preservation of sobriety and good conduct among the men.

In time of peace the soldier, being surrounded by the members of civil society, must, like them, conform to the laws and, being under the influence of public opinion, he is unconsciously to himself, held in obedience by it, so that no extraordinary coercion is necessary to keep him within the bounds of civil or military law. But in the colonies the soldier, even though he be serving in a time of peace, has many temptations to fall into a neglect or breach of discipline: he is far removed from the friends of his early life, who may have exercised upon his mind a moral influence for good; he sees around him only the conduct, too frequently licentious, of the lower orders of people in the country where he is stationed, and he may not possess the principles which should have been implanted in his mind by a sound education. The probability of a return to his native land before many years have passed is small, and the diseases to which he is exposed from the unhealthiness of the climate frequently terminate fatally: hence he becomes reckless from despair, and the facilities with which wine or spirituous liquors may often be obtained lead him into excesses which, while they accelerate the ruin of his health and render him unfit for duty, expose him to commit offences both against discipline and morals. Thus in the colonies there arises a necessity for greater restraints on the freedom of the soldier, and for the infliction of heavier punishments than are required at home. (Major-General Sir Chas. Napier, *Remarks on Military Law*.) In time of war and on foreign service a vigorous discipline is necessary: the privations to which soldiers are then exposed strongly induce those who are not thoroughly imbued with moral and religious principles to plunder the country people, in order to supply their immediate wants, or to drown the sense of their sufferings in

liquor. It ought also to be observed, in war-time, many turbulent spirits induced to enter the army in the hope of enjoying the licence which the military life abroad appears to hold out. These men are the ringleaders in all excesses, and they frequently cause many of those who are weak in principle to join them. In such cases therefore the most effectual measures must be immediately applied, if discipline is to be preserved in the army. The efforts made by the British commanders, during the war against France and Spain, to maintain order, and prevent the people of the countries being injured, were great and praiseworthy. Perhaps fewer crimes were committed by the British troops than those of their allies or their enemies: still there were many occasions on which the national character was disgraced by the misconduct of the soldiery.

SOLICITOR (Attorney)

SOVEREIGNTY. *Sovereignus* is a Latin word formed from *super*, above, and *trium*, another low Latin word, from *subter*. (*Quæstiones in m.*) The words however, though they do not long to classical Latin, are formed according to the same analogy as the medical word *supernus* from *super*. From *supernus* have been derived the adjectives *supranus* or *soveran*, and the French *soverain* from the latter of which has been borrowed the English word *sovereign*. In the old English which word is correctly spelt *soverain* (see Richardson in *v.*) the orthography seems to be founded on an erroneous supposition that the initial *s* of the word is consonant, as in *reign*, *requiem*. Milton speaks of *soverain*, deriving it from the Latin, and it passed into our language from French.

Having explained the etymology of the word *sovereign*, and its connection with *soverain* we proceed to consider the meaning of the term *sovereignty* as it is understood by political and legal writers.

In every society not being a state, or in a state of anarchy, some person or persons possess the supreme or ultimate power

judicature." This is, however, an erroneous view of the matter. It is simply a rule of law that a debt, for which the judgment of a court of record has been obtained, has a priority over other debts.

SPECIFICATION. [PATENT.]

SPIRITS. [WINE AND SPIRITS.]

SPY. In the discussion of this and many other questions of international law, the terms right, law, lawful, and others of the same class, must be understood in a different sense from their proper technical meaning. What writers on International Law speak of as a right is very often merely what appears fair, reasonable, or expedient to be done, or to be permitted. It is the reasonableness or expediency alone which is the foundation of those various usages which are recognized by independent civilized nations in their intercourse one among another, and constitute what is called the Law of Nations. Thus a person or a power is said to have a right according to the Law of Nations, which means that the usage of civilized nations permits the act, and this is the least objectionable sense in which the word right is used. But when writers use the word right merely in the sense of what is expedient, without reference to its being the foundation of a recognized usage, they are confounding the reason or foundation of a usage with the usage itself.

No doubt, we believe, has ever been intimated by any writer of authority on International Law, as to the right of nations at war with each other to avail themselves of the services of spies in carrying on their hostile operations. "Spies, whom it is, without doubt, permitted by the law of nations to employ, Moses made use of such, and Joshua himself acted in that capacity. This is the expression of Grotius in the only passage in which he touches on the subject (*Hell et Pac.* 114, 818, par. 1). Vattel says: "If those whom he (a general) employs make a voluntary tender of their services, or if they be neither subject to him in any way connected with the enemy, he may unquestionably take advantage of their services without any violation of justice or honour." (*Le Droit des Gens*, liv. 10, § 179, in the common

English translation as edited by 8vo, London, 1834).

But it is generally held that it can only be exercised under circumstances of various kinds.

First, as to the right of the sovereign for whom he is employed any one subject to his service as a spy. Grotius is to which we have referred, spies when caught are wont to be treated with extreme severity, and this is sometimes done justly, because they have a manifestly just cause against others, in the license which war tolerates (*licentia illa quæ jure*), a useless distinction, and no practical rule can be founded on it. As Grotius himself notices, when a spy is caught, to put him to death is a useless attempt to assign the severity of spies, he is generally condemned to capital punishment, and with great justice, because scarcely any other means are available against the mischief they may do. A man of honour, Vattel preserves, always declares warning as well as from his reluctance to himself to this chance of an execution, as because, moreover, it cannot be performed without a violation of treachery. "The sovereign has no right to require such a sacrifice from his subjects, or from perhaps his regular case, and that of the law of nations." Such loose exceptions stated abroad in the writers on International Law, and detract very much from the practical value as well as the scientific character of their theories. In ordinary cases, Vattel decides, the general must be allowed to employ spies in the best way he can, by means of mercenary souls by rewards.

Secondly, the employment connected to be subject to obligations in respect to the manner in which the object attempted to be achieved. We may lawfully endeavour to weaken the enemy by means, provided they do no harm to the common safety of Europe or to the person and assassination. The proper business of a spy

1792." Yet wholly absurd as this decree was, its violation of the law of nations seems to have consisted merely in its not being confined to the case of such foreign countries only as the French repub. might be then at war with, unless indeed it was intended to be taken, as it could not fail to be, for a declaration of war against all existing governments.

The proper question as to the so-called law of nations with regard to spies, is what practices are sanctioned by the general usage of independent civilized nations; such practices as are now permitted by such usage constitute a part of this so-called international law. Those practices which are not generally permitted or acknowledged are not yet a part of such law. Persons who have occasion to write or think on this subject will find that much of the indistinctness and confusion observable in the treatises on the law of nations will be removed if they will first form for themselves a clear conception of the proper meaning of the word Law, and of the improper meanings which it has also acquired; and they will thus be enabled to give the necessary precision to terms which are used so vaguely by writers on international law. [Law, RIGHT.]

SQUADRON, the principal division of a regiment of cavalry; the numerical strength of a squadron has varied at different times, but at present it consists of one hundred and sixty men, of whom about one-sixth are not under arms. This body of men is divided into two troops, each of which is commanded by its captain, who has under him a lieutenant and a cornet. The word is supposed to be derived from "quadra" Italian, which is itself corrupted from the Latin word "quadratum," *acies quadrata* denoted a body of men drawn up in a square form. The term "squadron" occurs in Proussart's "Chronicles," and probably it was very early used in the French armies to designate a body of cavalry.

The strength of an army, with respect to cavalry, is usually expressed by the number of squadrons in the field, as it is with respect to infantry by the number of battalions. Each regiment of cavalry consists of three or four squadrons; and

when in line, one yard is the front & allowed for each horse. The interval between two squadrons is equal to the extent occupied by each.

STABBING. [FIRE.]

STAFF MILITARY

properly it is considered under the general command of a general, field, and regimental, which is confined to care the means of rendering the of the nation efficient of discipline in the army, and it dates in every branch of the

Besides the commander military secretaries and aides general staff consists of the quartermaster-general, with five deputies, assistants, assistants, the director general, department, and captain the forces. The staff of department consists of the and lieutenant-general, with and assistants, the inspectors, and the director of The head quarters for the are in London. There are several military districts in Britain is divided, inspecting assistant adjutants general, brigade together with the to the recruiting service. The ters for Scotland are at Edinburgh, besides the lord-lieutenant, aides-de-camp, the chiefs of, and of a deputy adjutant, quartermaster-general, with ants. Their head-quarters and there are, besides, the for the military districts of the empire. Lastly in and men there is a staff general under with the general staff and consisting of the general, his aides-de-camp, military, and majors of brigade, and officer, a deputy adjutant, and quartermaster-general.

The adjutant-general is charged with the duty of recruiting, and arming the troops, ing their discipline, granting furlough, and discharging the

then, or whatever may be the number of persons who it shall be calculated to convey in the number of horses by which it shall be drawn, shall be deemed a hackney carriage. The number of public vehicles appears to have originated in London. The rise and progress of their use in London may be fairly directly traced from notices in Macpherson's *Annals of Commerce* and in Anderson's *History of Commerce*, of which were the early volumes of Macpherson were replete with but few allusions. Under the year 1622, Macpherson or not in Anderson, observes that "Our historiographers of the city of London write that it was in this year that hackney coachmen began to pay in London streets, in rather in the street to be pulled for as they were wanted, and they were at that time only twenty in number. In 1622 the number of hackney coaches daily paying in the streets was limited to 200, so that it was increased in 1625, allowing however only four horses, in 1661 to 400, and in 1684 to 700. By an act of the 21st year of Anne, 1703 the number was to be increased to 1000 for the purpose, to 1125 of the licences to be granted, and hackney coaches were also licensed. The number of chairs was shortly afterwards limited, not by the act 12 Geo. 3. c. 12, to 100. In 1761 the number of carriages was further increased to 2000.

A light kind of vehicle, drawn by one horse, was brought into extensive use in Paris. Efforts were made to introduce similar vehicles into this country but owing to a regard for the "vested rights" of the hackney coach owners, it was long found impossible to get a carriage for them. With great difficulty Messrs. Bradshaw and Rolch for latter a member of parliament) obtained an act which might enable in 1823, and started them at far less than the price of hackney coaches. The act was only a law confined to all hackney carriages drawn by one horse, whether a two or four wheel. During the first few years of the reign of Edward VII. the number was restricted to 2000, while the number of single horses was increased to twelve hundred, but in 1832 all restriction as to the number of hackney carriages was removed.

The number of hackney carriages for use during the year ending 20th June was 2476, all of which, except those of less than 2000, were four-horse vehicles. The number of licences during the year ending 20th June was 1827, besides 3000.

The generally low standard of character among the drivers led to the adoption of a system of fines which is not calculated to produce any good feeling. The vehicles are sent out at a fixed sum per hour, rather, the men are expected to leave the stipulated amount. The amount of pay for 1000 wages, according to the amount of time spent in the street and sent to the city.

An attempt was made in 1800, to introduce a new kind of vehicle, founded upon the model of the old stage-coach, which could only carry four or five passengers, but the project was rejected. When it was introduced from France, it was drawn by three horses, but this arrangement was soon abandoned.

The first successful introduction was started by a couple of men, Bradshaw and Rolch, for latter a member of parliament) obtained an act which might enable in 1823, and started them at far less than the price of hackney coaches. The act was only a law confined to all hackney carriages drawn by one horse, whether a two or four wheel. During the first few years of the reign of Edward VII. the number was restricted to 2000, while the number of single horses was increased to twelve hundred, but in 1832 all restriction as to the number of hackney carriages was removed.

Some of the facts in the progress of this system are detailed in papers in Bradshaw's *London and the World*, vol. 10, 11, and 12. Some of the historical matter is in the *Knight's 'London'* and the *Magazine*, vol. 10.

In 1750 the act of parliament passed (10 Geo. III. c. 51) and

modes of granting sum monces, powers of magistrates, punishments, penalties, &c.

STAMPS STAMP ACTS. Stamps are impressions made upon paper or parchment by the government or its officers for the purposes of revenue. They always denote the price of the particular stamp, or in other words, the tax levied upon a particular instrument stamped, and sometimes they denote the nature of the instrument itself. If the instrument is written upon paper, the stamp is impressed in relief upon the paper itself, but to a parchment instrument the stamp is attached by paste and a small piece of lead which itself forms part of the impression. These stamps are easily forged, and at various times forgeries of them upon a large scale have been discovered. The punishment for the forgery of stamps was made a capital offence by the Act of William and Mary, not continued so until the year 1830 (11 Geo. IV. & 1 Wm. IV. c. 19) when it was made punishable by transportation.

In France stamps are used both for the authentication of instruments and as a source of revenue.

The stamp tax was introduced into this country in the reign of William and Mary 5 W. & M. c. 21. such an impost had previously existed in Holland. The Act 5 W. & M. c. 21, imposes stamps upon grants from the crown, diplomas, contracts, probates of wills and letters of administration, and upon all writs, proceedings, and records in courts of law and equity; it does not, however, seem to impose stamps upon deeds, unless they are enrolled in the courts at Westminster or other courts of record. Two years afterwards, however, conveyances, deeds, and leases were subjected to the stamp duty, and by a series of acts in the succeeding reigns every instrument recording a transaction between two individuals was subjected to a stamp duty before it could be used in a court of justice. By the 38 Geo. III. c. 78, a stamp duty is imposed on newspapers, and by a subsequent act inventories and appraisements are required to be stamped. Legacies are largely taxed by means of stamped receipts. Stamps are also used as a convenient method of imposing a tax upon a

particular class of persons. Those of apprenticeship are subject to articles of clerkship to a solicitor of 12*l*. Solicitors are required to annually a certificate, stamped with a 12*l*, 8*l*, or 6*l* stamp according to circumstances. Before a person can practice as a physician, an apothecary, a barrister-at-law, or an attorney, he must pay a tax varying from 5*l* to 10*l* in the form of a stamp upon a Notary public, bankers, pawnbrokers, and others must obtain a year's stamp in order to exercise their calling.

The schedule to the Act 5 Geo. IV. c. 124, which consolidates all the acts, occupies nearly 100 octos. Since the year 1815 the stamp duties have been mitigated. The 5 Geo. IV. c. 124 exempts law proceedings from stamps, and the stamps upon newspapers reduced from fourpence to 2*d*. 6 & 7 Wm. IV. c. 76 (1836), exempts the paper from postage, and the stamp duties on advertisements in newspapers, see ADVERTISING NEWSPAPERS.

In order to protect the revenue the stamp acts usually impose a penalty for any fraudulent evasion of the duties; and the 44 Geo. III. c. 120 provides that the proceedings shall be in the name of the attorney general in England, the king's advocate in Scotland, and the penalty shall go entirely to him.

The acts render an unstamped instrument invalid, and in order to secure the revenue they multiply the number of instruments to authenticate a transaction. Hence the stamp acts have given rise to many questions in courts of law as to the amount of stamps required on particular instruments, the nature and effect of the stamps, the effect which the irregular or erroneous nature of the stamps produce upon the instrument, and what may be made in a court of law of a paper not stamped, but nevertheless questionably recording a particular transaction.

The courts of law have interpreted the stamp acts with strictness with which penal laws are interpreted, giving to exemptions an extension as the words will bear; on the other hand, looking to a

consolidated the Board of Stamps. The commissioners transact their business in Somerset House, London. The endeavour to impose stamp duties upon our American colonies in 1765, was one of the approximate causes of the American revolution.

The law respecting stamps, and a reference to the principal cases cited, are contained in Chitty's *Practical Treatise on the Stamp Laws*. That work has been mainly used for this article.

The stamp duties are very unequally on small and on large transactions, and fully justify the statement that the legislature that imposed them were desirous to shift the burden of taxation from the rich to the middling classes. The stamp duty on the sale of land of the value of 50*l.*, taking a certain average length of conveyance, is 12*½* per cent.; of the value of 100*l.* it is 5 per cent.; of the value of 500*l.* it is 1*l.* 1*½* 3*d.* per cent., but of the value of 5000*l.* it is only one per cent. The same unequal scale applies to mortgages. "A mortgage of 50*l.* would cost in stamps and law expenses, 30 per cent.; a mortgage for 12,500*l.* would cost one per cent., and for 100,000*l.* it would cost 1*½* per cent." This scale of taxation is manifestly framed to shift the burden from great landowners and capitalists to those of very moderate means. These facts appear from a Report of a Committee of the Lords (1844) on the peculiar burdens which the land has to bear. The result of this inquiry shows clearly the peculiar burdens which the comparatively poor sustain in consequence of the legislation of the rich.

The net produce of the stamp duties in the year which ended October 10, 1844, was 2,523,385*l.*; in the year which ended October 10, 1845, it was 2,951,374*l.*

STANDING ORDINANCE [BILL IN PARLIAMENT.]

STANNARY, from the Latin *Stannum*, "tin." This term sometimes denotes a tin mine, sometimes the tin mines of a district, sometimes the royal rights in respect of tin mines within a district. But it is more commonly used as included up the tin mines within a particular district, the tinners employed in working them, and the customs and privileges

attached to the mines, and to those employed in digging and purifying tin.

The great stannaries of England, those of Devon and Cornwall, and the stannary of Cornwall is the most important. The stannaries of Cornwall, Devon, were granted by Edward III. the Black Prince, upon the conquest of the duchy of Cornwall, and are peculiarly incorporated with that county. Both stannaries are under an officer called the lord warden of the stannaries, with a separate vice-warden in each county. The stannary of Cornwall is subdivided into the stannary of Liskeard, more, in the eastern parts of the county, and the stannaries of Tywardreath, with, and Helston in the west.

All tin in Cornwall and Devon ever might be the owner of the tin, appears to have formerly been taken by a usage peculiar to the tin mines, for the general principle of the crown extends only to tin of the silver, or other metal in which the gold or silver is contained, and inferior metal with which it is mixed. (See *Coke's Rep.*, 9.)

King John, in 1201, granted to his tinners in Cornwall and Devonshire, authorizing them to erect cranes to melt the tin in the moors and in the forest of Dartmoor and elsewhere, as they had been accustomed. Maddox, *Law*, 1201. This charter was confirmed by Edward I., Richard II., and Henry IV.

In Cornwall the right of tin mining other men's land is now regulated by a peculiar usage, called the custom of *tin mining*. This custom attaches to land as now is or anciently was, that is, land open or waste, and mode of acquiring a right to tin. Thus an agent goes on the land, bounded and digs up the tin, making little pits at the four corners towards the east, west, north, and south, to a reasonable extent, and then within the four corners, at the corners, the agent describes the situation of the lands, then when, and the person by whom they are marked out on each, and makes a

was to remove the staple, previously held at Calais, to various towns in England, Wales and Ireland which are appointed by the statute. The statute directed proceedings similar to those prescribed for obtaining a Statute Merchant by means of a sealed recognizance, in consequence of which execution might be obtained against the lands and tenements of the debtor in the same manner as under a Statute Merchant.

A variety of other statutes were passed in the same and succeeding reigns, in some respects confirming, in others altering the provisions of the leading statute. As commerce became more extended, the staples appear to have fallen into disuse. Lord Coke, a great worshipper of antiquity, complains that in his time the staple had become a shadow; we have only now, he says, *stapulam umbratilem*, whereas formerly it was said that wealth followed the staple. The practice, however of taking recognizances by statute staple from the many advantages attending them, long continued. (1 Edw. I. 37 Edw. III. caps. 1, 3, to 6, 8, 9; 2 Inst. 322, *Com. Dig.* tit. 'Stat Staple'; 3 bound by Wm., 19, Reeves, *Hist. Eng. Law*, v. 2, pp. 161, 233.)

STAR-CHAMBER. The Star-Chamber is said to have been in early times one of the apartments of the king's palace at Westminster which was used for the despatch of public business. The Painted Chamber, the White Chamber, and the Chamber Maskolph were occupied by the treasurers and receivers of petitions, and the king's council held its sittings in the *Camera Stellata*, or *Chambre des Estoyles*, which was so called probably from some remarkable feature in its architecture or embellishment. Whatever may be the etymology of the term, there can be little doubt that the court of Star-Chamber derived its name from the place in which it was holden. "The lords sitting in the Star-Chamber" is used as a well-known phrase in records of the time of Edward III., and the name became permanently attached to the jurisdiction, and continued long after the usual situation of the court was changed.

The jurisdiction of the court of Star-Chamber appears to have originated in

the exercise of a criminal and civil jurisdiction by the king's council or by a section of it which Lord Hale calls a *Concilium Ordinarium* in order to distinguish it from the *Privy Council* who were the deliberate advisers of the king. (Hale's *Jurisdiction of the Justices*, chap. v. *Parliament's History*, vol. 1, *Original Authority of the King's Council*.) This exercise of jurisdiction by the king's council was considered as a criminal matter upon the common law, and was the subject of frequent complaint by the Commons, was greatly restricted by several acts of parliament in the reign of Edward III. It was discontinued by the common-law judges, a large number of whom were usually members of the council, from the joint operation of these and other causes the power of the Council Regni as a court of justice had nearly declined previously to the reign of Edward VII., although, as Lord Hale says, there remain "some stepping stones of their proceedings" till now. The statute of the 3 Henry VII. empowered the chancellor, treasurer, keeper of the privy seal, or any two of them, calling to them a bishop or temporal lord of the council, or the chief justices, or two other persons in their absence to whom the jurisdiction of the council was added by statute of Henry VIII. c. 20, upon behalf of the king to sit in the lord chamberlain's court, or other, against any person for any offence giving of liveries, and taking of robes, furs or promises, or other rewards, untrue detractions of other persons' lands and other untrue returns, taking of money by juries, or for great and unlawful assemblies, to call and examine before them and examine them, and punish them according to their deserts. The object and effect of this statute are extremely doubtful; but it is perhaps the best opinion that the court of Star-Chamber, that this court fell into disuse after the death of Edward VII., that the court of Star-Chamber was the *ordinarium concilium* against whom jurisdiction had been removed from the reign of Edward III., and that no part of

their attendance." He further states, that "In the times of Henry VII and Henry VIII the court was most commonly frequented by seven or eight bishops and prelates every sitting day," and adds, "that in those times, the fines reached not to the destruction of the offender's estate, and utter ruin of him and his posterity, as now they do, but to his correction and amendment, the clergy's ruling being of mercy" (*Coll. Jurid.* vol. II. p. 3.) The settled course during the latter part of the reign of Elizabeth and the reigns of James I and Charles I., seems to have been to admit only such peers as judges of the court as were members of the privy council.

The civil jurisdiction of the Star-Chamber comprehended mercantile controversies between English and foreign merchants, testamentary causes, and differences between the heads and commonalty of corporations, both lay and spiritual. The court also disposed of the claims of the king's almoner to deadlands, and also such claims as were made by subjects to deadlands and *catalla felonum* chattels of felons, by virtue of charters from the crown. The criminal jurisdiction of the court was very extensive. If the king chose to remit the capital punishment, the court had jurisdiction to punish as crimes even treason, murder, and felony. Under the comprehensive name of contempt of the king's authority, all offences against the state were included. Forgery, perjury, riots, maintenance, embracery, fraud, libels, conspiracy, and false accusation, misconduct by judges, justices of the peace, sheriffs, jurors, and other persons connected with the administration of justice, were all punishable in the Star-Chamber.

It was also usual for the judges of assize, previously to their circuits, to repair to the Star-Chamber, and there to receive from the court directions respecting the enforcement or restraint of penal laws. Numerous instances of this unwarrantable interference with the administration of the criminal law occur with reference to the statutes against recusants in the reigns of Elizabeth and James I.

A court of criminal judicature, com-

posed of the criminal agents of the prerogative, possessing a jurisdiction so extensive, and at the same time perfectly defined, and authorized to add any amount of punishment short of death, even when best administered, has always been viewed with apprehension and distrust, and accordingly in the earlier periods of its history we find constant remonstrances by the Commons against its encroachments. As civilization, knowledge, and power increased among the people, the jurisdiction of the lords of the council became intolerable. A measure which was introduced in the House of Commons in the last parliament of Charles I., to limit and regulate the authority of this court, terminated in a proposal for its entire abolition, which was eventually adopted with a majority in both Houses. The statute 12 Car. I. c. 19, after reciting Magna Charta and several early statutes in support of the ordinary system of judicature by common law, goes on to state that "the judges of the Star-Chamber had not kept themselves within the bounds of the statute 3 Henry VII., but had taken to punish where no law warranted, and to make decrees having no authority, and to inflict heavier punishments than by any law was warranted; and that the proceedings, sentences, and decrees of that court had by experience been found to be an intolerable burthen to the subjects, and the means to introduce an arbitrary power and government." The statute then enacts, "that the said court called the Star-Chamber, and all jurisdiction, power, and authority coming unto or exercised in the same court, or by any of the judges, officers, or ministers thereof, should be utterly and absolutely dissolved, taken away, and determined, and that all statutes giving such jurisdiction should be repealed."

STATE SOVEREIGNTY.

STATES GENERAL. This term is from the French *Etats Generaux*, the assembly of the three orders of the kingdom—the clergy, the nobility, and the third estate. The States General of France were convoked in 1314 under Louis XIII., and they did not meet again till 1788. The memorable session

the States General of France in 1789 to the Revolution. A dispute arose between the two privileged orders and the Third Estate, each taking about their rights of voting and sitting. It was at length decided by the French members of the States General to assume the name of National Assembly without waiting for the other two orders. Malesherbes was the proposer, but finally in the year 1790, June 20, the deputies of the Third Estate with such deputies as chose to join them, for the first time, occupied the name of the National Assembly, which had sometimes used to designate the States General. Louis XVI., afterwards called the King, was elected to the National Assembly. One of the first acts of the National Assembly was the abolition of the *ancien régime*, and the establishment of new laws and the constitution, a great and important decision. Malesherbes and some moderate deputies, and a moderate thinking people, were in the majority. Liberty. The National Assembly continued its labours until the 10th of August 1791. In September 1791, the assembly proposed to the King to accept the new constitution, and the King accepted and the assembly dissolved itself on the 10th of the same month. The first National Assembly of France ceased to exist. The constitution lasted about three months, and was followed by the Revolution.

STATISTICS in that department of liberal science which is concerned in collecting and arranging facts illustrative of the condition and resources of a state, and upon such facts used to draw inferences. It is then a part within the scope of statistics, but is the business of the statesman and of the political economist.

It is necessary for a government, in order to govern well, to acquire information upon matters affecting the condition and interests of the people. Inventions, the extension of a country may not be measured by the consequences

of its statistics, but where valuable statistical records of national data are found concerning a country and yet advanced in civilization, which would appear to contradict this position, we owe them to the efforts of governments of the nation, vigorous and vigorous. However, the government of a country may be so constituted that it may not attempt to make laws, or may not acquire the means of forming a policy, or may, however imperfect, as to the matter brought under its consideration. In this sense statistics may be said to be connected with legislation. But as legislation has not been conducted upon a fixed principle, or perhaps it is the character of science in the early ages of the world we must attribute to statistics as a department of political science a much later origin. It is chiefly in the time of political economy that we are indebted for the cultivation of statistics. The principles of that science, which are directly concerned with the prosperity and happiness of mankind, were not reduced to any system until the middle of the last century. Since that time, political economy has been cultivated as a deductive science. The collection of facts, and the observation and analysis of facts, and new principles have been discovered and established by the same means. A limited knowledge of facts had previously been an obstacle to the progress of political economy, and, on the other hand, the neglect of that science caused a deficiency in statistical inquiries. Statistics, which had been neglected until political economy rose into favour, have since been cultivated with constantly increasing care and method, so that science has been further developed, and the knowledge of its fundamental principles more widely diffused.

The connection between political theory and statistics, which it has led to the collection of many data which would not otherwise have been obtained, has often introduced a partial and deceptive statement of facts, in order to support preconceived opinions. This is sometimes unjustly objected to statistics as it is a defect peculiar to them. That factitious for deception are afforded by statistics

cannot be deemed but fallacious if this belief, like a faith, is not open to scrutiny and exposure. Passions good and bad are placed upon statements of facts not on them are unless a prejudice of prejudice, and if we learn them should only be admitted *cautiously* to the extent by which all kind of bias is guarded. Fallacious as the defect is, proportion to the magnitude of the subject and the issue raised. It is a species of our ignorance, but in fact we all maintain theories, and systems are maintained with equal ability and facts and arguments are investigated with as much passion, that, in the end, truth can hardly fail to be established. Neither does any acquisition of partially attach to such facts as are collected by a government without reference to particular theories. I still remember the value of noting a certain class of facts with a view to his own inquiries, and pains are taken to obtain information of that nature from the best sources. But we learn the importance of seeking any data, as acknowledged, the collection of them, according to the business of important persons. The statistic must be associated with the purposes to which the facts collected and arranged by him are likely to be applied, in order that the proper limitations and details may be noted in such a manner as to give the fullest scope of analysis and inference, but his services are greatest when he does not attempt to support of a theory.

It then becomes part of the business of government to apply on the means in its power in aid of education, not only for the administration of the affairs of state, but also for the improvement of political science. Attendance and accuracy must be the object of a government in collecting statistical facts.

We would lay much stress upon the collection of facts by the supreme power, because the collected facts most important in political inquiries can scarcely ever be collected out by other persons, who have not access to the offices of government, and who are without authority to demand information. As the government has ample means at its disposal and can, without difficulty, and in the ordinary course of administration, obtain statis-

tical information, of the highest quality. In this and many other instances, the respective powers of the state are themselves *cautiously* to state. In England, the statistics of Trade, the extent and area of the diameter of a state, as, carried to statistical strength, by the agency of government. The several organized departments of the government have channels of materials systematically collected, and they never fail to arrange and maintain, and to arrange the data of current credit is due to the government for the diligence with which several departments have kept statistics, and in March, 1844, the report of the statistical committee, under the subject of this committee, and minister of the interior, to the king, "will be taken up by the common department as the common foundation which is at present, and the different departments of the state, and it will prepare materials for the study of the king in regard to the and classify the statistical publications." He said, that not only cases, carried out statistical subject proposed, the government legislative chambers, and the work found in the official statistics, and these authentic disseminate and throw light on all matters of interest to the people, useful works, and known annually the situation the material and moral state of the kingdom." The historical committee, it may be replied, is confined to Belgium. The world is interested in the statistics of any country, and improved methods of conducting statistical inquiries must be put applicable.

But while governments are the great, there is ample room for the house of industry. Local statistics all kinds are open to them. The and records of public markets, relating to particular trades, to the civil and social state of different countries, and other matters appear in local records only, from general

as those derived from the more extended scale. And may direct the law by a more exact comparison of might together in official state view to the illustration of science or experiments in daily experiments and facts may direct the attention of the particular branches of the government in the mode of the one, or in the form it are published.

we have to attempt an even the various matters that are the province of statistics, but a convenient consideration of it may be divided into 1, statistics, or facts illustrative of condition of a state, 2, population, 3, of revenue, 4, commerce, and navigation, 5, moral, and physical condition of the people. Each of them divided into subjects necessary for the official business which serves as the use to which such may be applied, and the article

little which have passed houses of lords and commons the royal assent by parliament, and are some of collectively as forming the statutes of the realm. The word is applied to of the word to mean by which private laws (H. 1. in Parliament), and even public laws purpose in temporary and a still more restricted manner of the early part of the subject in question, for and and receives the royal assent to the class of public laws at large on the statute, which are not recommended to some in which that word

definition can be given of of the deliberations in parliament the king has signified which are now called the realm. We may distinguish the enactments of early

times, as follows: they were at a very remote period separated from the rest, written in books apart from the rest, and received by the courts of law as of equal authority with the ancient customs of the realm.

Probably also they have, with very few exceptions, a more general bearing than the other public acts which are found upon the rolls of parliament.

Three volumes, preserved in the court of Exchequer, and now in the custody of the Masters of the Rolls, contain the body of those enactments which are called statutes. One volume contains the statutes passed before the beginning of the reign of Edward III., and the other two, those from Edward III. to Henry VIII., all very fairly written. These may be considered as the manuscripts of the early statutes of superior value if not of superior antiquity as to the earlier portions to the many similar collections which are in the libraries of the king of court, of the universities, of the British Museum, and in some other departments public and private. There are some manuscript copies of the statutes not in substance pretty nearly the same, though some of these collections contain statutes which are not admitted into others. These books are not considered in the light of authorized enactments of the statutes. For the authentic and authoritative copies, if any question arises, recourse must be had (1) to what are called the Statute Rolls at the Tower, which are six rolls containing the statutes from Edward I. to Edward IV., except from 8 to 25 Henry VI., (2) to the enrolment of acts of parliament which are preserved at the Rolls Chapel from Edward III., (3) to manuscript and printed copies with witnesses signifying that they were transmitted by authority in certain courts or other parties, who were required to take notice of them, of which many remain in the Exchequer and elsewhere (4) in those cases (5) Henry VII. to the original acts in the parliament rolls (6) the rolls and parliament, (7) the close patent, fine, and charter rolls at the Exchequer, which statutes are sometimes found.

With the parliament of the reign of

Richard III. began the practice of printing, and in that manner publishing, the acts passed in each session. This followed very soon on the introduction of printing into England. Before that time it had been a frequent practice to transmit copies of the acts as passed to the sheriffs of the different shrievalties to be by them promulgated. The practice of printing the sessional statutes has continued to the present time.

Before the first of Richard III. the aid of the press had been called in to give extended circulation to the older statutes. Before 1481 it is believed that an abridgment of the statutes was printed by Letton and Machina, which contains none later than 33 Henry VI., 1453. To the next year is assigned, by those who have considered this subject, a collection, not abridged, from 1 Edward III. to 22 Edward IV. Next to these in point of antiquity is to be placed a collection printed by Pynson about 1497, who also, in 1538, printed what he entitled '*Antiqua Statuta*,' containing *Magna Charta*, *Charta de Foresta*, the Statutes of Merton, Marlbridge, and Westminster *primum* and *secundum*. This was the first publication of those very early statutes.

In the reign of Henry VIII. the first English abridgment of the statutes was printed by Bastal, and during that reign and in the succeeding half century there were numerous impressions published of the old and recent statutes in the original Latin and French, or in English translations. Barker, about 1587, first used the title '*Statutes at Large*.'

In 1618 two large collections of statutes, ending in 7 James I., were published, called *Rastall's* and *Pulton's*. *Pulton's* collection was several times reprinted with additions.

In the eighteenth century an addition, to six folio volumes, was published by Mr. Serjeant Hawkins in 1745, containing the statutes to 7 George II. *Cay's* edition, in 1758, in the same number of volumes, contains the statutes to 30 George II. Continuations of these works were published as fresh statutes were passed, and another work in 4to., of the same kind, was begun in 1762, well known by the designation of *Ruffhead's*

'*Statutes at Large*.' *Pickering's* edition is in 8vo., and ends with 1 George III.

None of these collections had ever been published by authority of the state, although able men had been employed upon them, they have been though many competent judges not adequate to the importance of the subject, and to be made moreover to some serious objection. This led a committee of the House of Commons, who, in 1801, were appointed to inquire into the state of the *Parliamentary Records*, to recommend, among other things, that "a complete and authentic recension of all the statutes should be prepared. When the commission was appointed for carrying into effect the recommendations of this committee, they proceeded to the execution of this project, and having between the years 1810 and 1824 produced, in a series of large volumes, a critical edition of the statutes, including the early public charters, ending at the close of the reign of 14th Henry VIII. This is what is now considered the most authentic edition of the statutes, and is supplied with a valuable index. It forms ten folio volumes. To the original edition to that work there is a new particular account of the former edition of the statutes and of the means for making such a work as this complete.

The statutes passed in the latter Parliament of Great Britain are printed by the queen's printers, at London, and sold at the Act Office, 120 New Square, Fleet Street, London, at 3s. per act, at the rate of three halfpence per page (4 pages, for public acts and three per a sheet for private acts. An *Index* is also published, which is sold at the rate of one penny a sheet (16 pages per sheet) at Richards's, in Fleet Street, London, and any sheet or sheets may be purchased so as to include one or more acts. The acts are not published separately in a new edition, as they are in the *Parliamentary Statutes*.

The statutes of the realm are generally divided into two classes—Public and Private (*PARLIAMENTARY*, p. 408), but they are more conveniently be distributed into three classes—Public General, *Private*, and *Private*. The two former come within the term "*laws*," in the

tion of the term. The private special privileges are fixed by the enactments of the legislature and are amendable rapidly, and before they can be they must be passed before of law like contracts, or the like. The Public Law is subject to amendment separately, and standing orders of the House and require that on account of intervals which they are often not even preliminary notices are passed through their system of contemplation of law, in relation as to Public General Statute, all the public and general, were published and amended consecutively, year 1770 downwards, the have been separately consolidated volumes. The legislation generally is in general, and those of our Statute. The latter are not more numerous, but from the date of arrangements regarding the and circumstances, and and regulations of public character, they are generally much in the public Statute. An, history of railway and other branches this branch of legislation, and the means of and it have been of law reformers, and have been taken to a complete.

It had been observed that some classes that are or ought to be all local acts. In matters which should be of the order, every one of the local different draftsmen used different, and the courts of law is almost often to give a precise effect to clauses which led to accomplish the same but intricacy and confusion gradually finding their way into the country, and the department of the law had by, by long, Voltaire's and the provincial laws of France, the changes laws as often as

the changes laws, was likely to be established. During the session of parliament of 1845 an effort was made to remedy this defect in local legislation. Three private general acts were passed, of which the following are the titles: "An Act for consolidating in one Act certain Provisions usually inserted in Acts with respect to the constitution of Companies incorporated for carrying on Undertakings of a public Nature;" "An Act for consolidating in one Act certain Provisions usually inserted in Acts authorizing the carrying on of Undertakings of a public Nature;" and "An Act for consolidating in one Act certain Provisions usually inserted in Acts authorizing the making of Railways." To prevent confusion a distinct series of these acts was passed applicable to Scotland. To each of these Acts there is a provision that it shall have reference to all local acts for the undertakings to which it applies. "And all the provisions of this Act save so far as they shall be expressly varied or excepted by any such act, shall apply to the undertaking authorized thereby so far as the same shall be applicable to such undertaking, and shall as well as the clauses and provisions of every other Act which shall be incorporated with such Act, form part of such Act, and be construed together therewith as forming one Act." It is hoped that this arrangement may in some measure economize local legislation—but its most important merit will be in the production of uniformity in the law of joint-stock companies and roads by statute.

STATUTE SCOTLAND. It would be difficult to explain the character of the local legislation of Scotland, the method in which it was conducted, or the constitution of the bodies by which it was passed. All the light that probably is to be obtained on the early history of the statute-law has lately been embodied by Mr. James, in the preface to the edition of the "Scottish Statutes and old Laws" published by the Record Commission. "Whatever," he says, "may be the case in other countries it is not easy in Scotland to distinguish the national legislative court or council of the sovereign from that which discharged

the duty of counselling the king in judicial proceedings. The early lawgivers, indeed, enacted statutes by the advice of the 'bishops, earls, thanes, and whole community,' or 'through the common counsel of the Kynryk.' But during the reigns previous to Alexander III. we find the king also deciding causes in a similar assembly of magnates, while laws of the greatest importance, and affecting the interests of whole classes of the community, have to be enacted by the king and 'his judges.' It is probable that the practice of the assembly, legislative or judicial, of the principal barons, though irregular, was in general an imitation of the parliament of England. Before the war of independence the border of the southern districts of Scotland had been in a great measure partitioned among Norman adventurers, some of whom owed a double allegiance to the crowns both of England and Scotland, and it was natural that they should bring with them the practice and opinions of the country with which they were earliest connected. A large proportion of the lowland population of Scotland were at the same time Saxon refugees from England. So early as the reign of David I., 1125, we begin to find that the municipal corporations had a voice in the ratification of the laws. "The parliament," says Mr. James, "assembled by John Balliol at Berwick on the 9th of February, 1292, was probably the first of the national councils of Scotland which bore that name in the country at the time, although later historians have bestowed it freely on an assembly of a legislative character. We have no reason to believe that any change in its constitution occasioned the adoption of the new term, which soon became in Scotland, as in England, the received designation of the great legislative council solemnly assembled. It was not till a few years later, on occasion of negotiating an alliance with France, that Balliol, probably at the desire of the French king, procured the treaty to be ratified, not only by the prelates, earls, and barons, but by certain of the burghs of his kingdom. That treaty was finally ratified at Dornoch on the 23rd day of February, 1295, and the seals of six burghs were then affixed

to the deed, along with those of the bishops, four monasteries, four earls, and eleven barons. Notwithstanding the very formal ratification, however, it has been doubted both from the peculiar terminology of the deed itself, and from the silence of historians as to any meeting of a parliamentary nature in which laws have been voted, whether the parliament was as constant, and experienced their representatives of those six burghs were actually present as in a national assembly or parliament."

The acts which were thus passed were sometimes, perhaps, by the separate consent of the principal interests of the country, sometimes in assemblies of a mixed character. Some were judgments of particular disputes arising probably by the assumption of a principle on which such questions should thenforth be decided. Others were acts of executive authority, and others might be regarded as having the character of fixed and general laws. When these proceedings related to matters of royal right, the recording instrument would be put into the hands of the party entitled. "When the proceedings of the national council," says the authority just cited, "related to matters of a domestic nature, such as negotiations with foreign states, its earliest records were probably of a similar kind and consisted of nothing more than the indentures or other diploma which embodied the results of its deliberations. Perhaps the earliest instance of this kind that now remains are the important deeds of the reign of Alexander III., when, however, a more uniform system must have been beginning to prevail. It would be still more necessary to ascertain the modes in which the more general ordinances and laws of the realm were enacted and recorded, but on the head the loss of every original document has left us entirely to conjecture. Judging, however, from the nature and imperfect transcripts of a later age, and from the analogy of the other states of Europe, it would appear that the more important and general statutes were framed in short capitula, and afterwards glossed into a writ addressed in the name of the king, to the chief minister

the want of uniformity in the form of the statutes hitherto uniformly made serving as a vehicle for the extension of such acts to Scotland. In many cases such as the Act, the Tithes Commutation Act, the institutions to which the law officers distinctly found an application in Scotland. In other instances, general laws are made which are applicable to Scotland as to England. The machinery by which the law is to be enforced is to be only in England. In many instances these acts have only been capable of enforcement in Scotland by reading of English institutions, those of which most nearly corresponded to them, by substituting "The Court of Session" for "The Courts of Westminster." The remedy now appears to be, to incorporate each act a clause stating the territorial extent of its application, and, when it is intended that it shall apply to Scotland, to have clauses especially applicable to its enforcement in that part of the

ACTS IN IRELAND. In Ireland, that by which the early irregular assemblies, called Parliaments, passed laws, appears to have been a close imitation of the English practice. The earliest printed statutes begin in the reign of Edw. II. After five years of this parliament there is no record until the year 1409, although known in history that repeated parliaments were held in the interval. The statutes of these parliaments are characterised by the state of the country, and the weight on the dominion of the English over the natives. In Hen. VI. c. 4, "An Act, that whosoever taken for an Englishman shall not use a sword upon his upper arm, the offender shall be taken for a traitor." 28 Hen. VI. c. 7, "Act, that it shall be lawful for the king to kill or take prisoners, and thieves found robbing, or breaking houses or taking the money," and in later times 13 Wm. III. c. 21, "An Act for the suppressing Tories, Robbers, and

Rapparees, and for preventing Robberies, Burglaries, and other heinous Crimes." The statute of Drogheda, commonly called Poyning's Law, passed in 1493 by Hen. VII. had a marked influence on the later legislation and constitutional history of Ireland. By chap. 22 it was enacted, that all the acts then or late passed in England, "concerning or belonging to the common and private weal of the same," should be law in Ireland. By chap. 4 it was provided, that no parliament should afterwards be held in Ireland until the lord lieutenant and council had certified the king of the causes and considerations for holding it, and if the acts proposed to be passed at it, and a licence had been obtained from England accordingly. Thus no measure could be proposed for the adoption of parliament until it had first received the royal assent in England. It is believed that this badge of servitude prevented the passing of many exterminating acts, which in times of anarchy, discord, or tyranny, the Irish minority and their partizan parliaments, would have readily passed. This act was repealed and the independence of the Irish legislature restored by the celebrated measure of 1782. By the Act of Union, in 1801, the Irish Parliament was merged in the United Parliament of Great Britain and Ireland. **PARLIAMENT OF IRELAND.**

STATUTE OF FRAUDS. This name is applicable to any statute the object of which is to prevent fraud, but it is particularly applied to the 29 Car. II. c. 3, which is entitled the "Statute of Frauds and Perjuries." The object of the statute was to prevent disputes and frauds by requiring many cases written evidence of an agreement. Before the passing of this statute many conveyances of land were made without any writing as evidence of the conveyance. An estate in fee simple could be conveyed by livery of seisin, accompanied with proper words, and a man could also be declared by jury. No writing was necessary to convey any estate in possession, for such estate is technically said to be in livery. But a conveyance could only be conveyed by deed. The Statute of Frauds declared that all leases, estates, and

terests of freehold or terms of years or any uncertain interest in any lands or hereditaments, made by livery and seisin only, or by parol, and not put in writing and signed by the parties, &c., shall have the force of leases or estates at will only. But leases for not more than three years, whereof the rent reserved shall be two-thirds of the full improved value of the thing demised are excepted by the statute. Further, no lease, estate, or interest either of freehold or terms of years, or any uncertain interest, not being copyhold or customary interest, shall be assigned, granted, or surrendered except by deed or note in writing. Another section of the statute provides that all declarations or creations of trust or confidences of any land, tenements, or hereditaments shall be manifested and proved by some writing signed by the party who is by law entitled to declare the trust, or by his last will in writing, or they shall be void. The 5th section of this statute declared that all devises of lands or tenements, as more particularly described in this section, should be in writing and signed in the manner here prescribed by three or four credible witnesses, and the 6th section related to the revocation of a devise in writing of lands or tenements. Both these sections are repealed by the last Wills' Act, 1 Vict. c. 26, which makes alterations in other provisions also of the Statute of Wills.

There are several other important provisions in this statute, which may be omitted here, as the object is to show merely that the purpose of the statute is to prevent fraud by requiring the evidence of writing, which is a better kind of evidence than man's memory.

STAPLE MERCHANT. [BURMEL, ACTS, STATUTE OF.]

STATUTE STAPLE. [STAPLE.]

STATUTES OF LIMITATION.

There appear to have been no times limited by the common law within which actions might be brought. For though it is said by Bacon, 10. 2, fol. 228, that "*tempus veniens in rebus infra certa tempora limitari non debet*," yet with the exception of the period of a year and a day, mentioned by Speelman (Gloss, 62), as fixed by the ancient law for the

heir of a tenant to claim a title of his ancestor, and for a man to make his claim upon a fine, no times or periods in the law have been established by statute. Remarkable periods were first written down, the cases of which have arisen. Thus in the 11th, the limitations of a writ which was then from the 10th, was by the Statute of Westminster, the period within which writs of *heir* and *heir* was brought in the time of Richard I. (1189).

Since the 4 Hen. VII. c. 1, limited the time within which a man might make his claim to his ancestor, a fine has been levied with provisions which have been for the purpose of limiting the time within which suits relating to real property may be commenced. The 11th limited the period for a writ of *heir* to twenty years; and enacted generally that no person might make entry into any lands, tenements, or hereditaments, twenty years next after his death or death of the person entitled. The act contained the rights of certain persons interested.

By the 9 Geo. III. c. 16, the crown to sue orimplemors, lands, or other hereditaments, except abbeys or priories, to sixty years. Hence that *nullum tempus occurrit regi*, and it still prevails as a maxim of law except where directed. The same maxim applies to the Crown, which, though it is the crown from time to time, so long as no eldest son of the king is person entitled to the dignity, in the above statute.

The next statute upon the subject is the important act of the 31st IV. c. 27, by which great changes were made in the remedies for torts to real property, and which has greatly altered the present law in relation thereto.

By section 2, no person might make entry or distress, or bring

fraud, might have been discovered; but nothing in this clause is to affect the title of a purchaser for valuable consideration, who was not a party to the fraud, and had, at the time of his purchase, no notice of such fraud sect 26. This principle had already been established in courts of equity.

By section 35, all real and mixed actions, except Ejectment, and the actions of Dower and Quare Impedit, were abolished after the 31st of December 1834.

Since the 31st of December, 1834, no money secured upon land by any mortgage, judgment, lien, or otherwise, or charged upon land by way of legacy, can be recovered by action or suit, but within twenty years after the right to receive the same accrued unless in the meantime some part of the money or interest thereon has been paid, or some acknowledgment in writing of the right thereto signed by the person liable to payment or his agent to the person entitled thereto or his agent, in which case the action or suit must be brought within twenty years after such payment or acknowledgment sect 40. This clause is a statutory confirmation of what was formerly established by decision as to money secured upon land, namely, that possession of the land by the

or action for the recovery of during the same period secured the 34th section but it being doubtful whether the 2nd act took the case out of the operation of the 1st act, the 3rd act (Wm. IV. and 1 Vict. c. 28.) reserving to the mortgagee entry, distress, and action for recovery of the land for twenty years after the last payment of principal although more than twenty years have elapsed since the right accrued.

Arrears of dower, or damages for arrears, are not to be recovered by action or suit beyond six years from the commencement of the action or before the act, there was no remedy at law or in equity to a claim of dower during the life of the husband (sect 41).

Since the 31st day of December, 1834, no arrears of rent or of interest of any money charged on any land or rent or any damages of such arrears of rent or interest recovered by any distress and but within six years next after the recovery of the same respectively became due.

though it exceed the term of
 years 62. It had already been
 in equity, in analogy to the
 that an account of rents and
 should not go back beyond six
 years the filling of the bill, and in
 cases where a party had neglected
 and where there was no doubt
 one side or the other, the other,
 has refused to carry the account
 back than the filling of the bill. I

[illegible]

planar crystals no absorption in
particular angles of reflection

properties are more regulated by Wnt^{N} , c^{N} , and c^{N} and c^{N} .

Furthermore as to admissions, the
 18th Nov 1897, a 10 clause
 the 1st day of December 1897
 is inserted in other matters, not
 to exercise right of presentation
 under the statute, or other order
 of the court in any way after the
 1st of the period during which
 the same shall have been
 made, and no admission shall be made
 to the right of the power, or to
 of the power, through whom he
 of the time of such admission
 shall amount to twenty years and
 more after and further period an
 action of such admission shall
 the period of sixty years

... as to other uncorrelated
... (fully) regulated by λ and
... (un)regulated

to Legislation of Personal Ac-
counts relating to Personal Pro-

Service of month and battery

at Aug 1, 1864, all nations
of small, battery, mounting,
or any of them, must be

reconstructed and still within five years
after the cause of national ruin

2. The amount of money

By the 21 Jan 1961, a total of 1000 people were in the camp. He would permit no more arrivals and most within two years must leave the camp, he stated.

1. All actions arising upon any of the above contracts, and actions grounded in tort or

By the 21st Jan. 1871, all matters of trespass upon common forest, matters of trespass elsewhere, trees, and disputes for taking woodlands and cattle, matters of common and open the same (except matters of commons) matters of debt grounded upon lending of money with no specialty and matters of debt for recovery of rent, must be commenced and tried within six years next after the date of action begun.

Formerly there was no limitation applicable to an action for a copy, though in some cases presumption of jointure was admitted, but the 1 and 4 Wm. IV c. 27, s. 43, which fixes the period of limitation to twenty years, in application to all legacies, whether charged on real estate or not. Before the statute of the 1 and 4 Wm. IV c. 41, there was no remedy for a claim due to the real estate of a person deceased in his lifetime, nor upon the estate of a person deceased, in respect of wrongs done by him or his executor to the property of another, but now, by act 34 & 35 Victoria chap. liii, an action of trespass or trespass on the case, for an injury done to the real estate of a deceased person in his lifetime, and for which he might have maintained an action at any time within a year after the death of such person, and any such action may be brought against the executors or administrators of a person deceased, for an injury done by him in his lifetime to the real or personal property of the plaintiff, within a calendar month after they shall have taken upon the mortgaged administration of the deceased a estate, provided a such case that the copy was commenced within six months of the death of such person.

The limitation on the amount of stock in the estate of a decedent does not apply to stock owned by a decedent.

To settle questions which arise upon the effect of subsequent promises.

acknowledgments, it was enacted by 5 Geo IV. c. 14, s. 1, reversing the act of James, that in actions of debt, or upon the case grounded on any simple contract, no acknowledgment should be deemed sufficient unless it were in writing signed by the party chargeable thereby; and that where there were two or more joint contractors or executors, or administrators of any contractor, the written promise of one or more of them should not bind the others. But it was expressly provided that nothing in the act contained should alter, take away, or lessen the effect of any payment of principal or interest by any person whatsoever, so that it would seem that that species of acknowledgment was, according to the old doctrine (2 Saurt. 63, *per* Holt), to be effectual not against the party making it only, but his co-contractor. Also by sect. 2, an endorsement or memorandum of payment upon a promissory note, bill of exchange, or other writing made by or on behalf of the party to whom payment should be made should be deemed proof of such payment to take the case out of the statute (and see 4, that the act of James and that act should apply to simple contract debts alleged on the part of a defendant by way of set-off.

4. As to actions arising upon specialty.

Before the 1 and 4 Wm. IV. c. 42, there was no statutory limitation to actions upon specialties, though the courts held that payment was *prima facie* to be presumed after twenty years.

By the 3d section of the above act actions of debt for rent upon an indenture of demise, actions of covenant or debt upon bond or other specialty, and actions of debt or *res facta* upon recognizance must be commenced and sued within twenty years after the cause of such actions or suits arises. If the 1 and 4 Wm. IV. c. 27, s. 42 applies to actions on specialty it is so far repealed by this act, but the better opinion seems to be that the former act applies to rents which are a charge upon land only and not to conventional rents, whether reserved by indenture or otherwise (2 King N. C. 184).

By sect. 5 it is provided, in accordance with the enactment of 5 Geo IV. c. 14, s. 1, as to actions on simple contract, that if

any acknowledgment has been made either by writing signed by the party liable by virtue of such specialty, or by part payment, or part satisfaction, account of any principal or interest due thereon, the person entitled to his action for the money remaining unpaid, and so acknowledged, may sue within twenty years after such acknowledgment or part payment, or satisfaction, the plaintiff being under no disability mentioned in the 4th section of the same act, or a person claiming by or for him at the time such acknowledgment being made, or within twenty years of the termination of his disability, or the return of the plaintiff from beyond seas.

III. Of Limitations of Actions by Statute.

By the 31 Eliz. c. 5, s. 1, which repeals a previous one, the 7 H. VII. c. 2, upon the same subject, as to suits, bills, indictments, or actions for any forfeiture upon any statute, whether made before or after the queen, her heirs, and successors, must be brought within two years of the commission of the offence, and actions, suits, bills, indictments, or actions for any forfeiture upon any statute, whether made before or after the act (except the statute of the benefit and suit whereof is limited to the queen, her heirs, and successors, or any other that shall prosecute or sue half, must be brought by the plaintiff within one year after the commission of the offence, and in default of prosecution, the same may be sued at any time within two years after the end of that year; and any act or indictment, or information brought after the time limited is to be void, except provided that where a shorter time is by any prior statute the process may be within the time so limited.

A prosecution by the party injured is not within the restriction, but now by the 1 and 4 Wm. IV. c. 27, all actions for penalties due to the crown, or sums of money given to the party,

*Quia, On Lien and Stoppage
; Smith's Landing Cases
; Brown & Mason, Russell's
the Laws Relating to For-
eigners.)*

REPROBATION [PERJURY]

REPROBATION OF PERJURY

REPROBATION [WITNESS]

REPROBATION, a Latin
verb, and or assistance. "With-
out Lord Coke," were actually
this, which granted by act of
parliament, and necessity, as
not originally and perpetually
granted for the defence of
the king and the safe keeping of the

[Actus] The word used
and sense was applied to rules
of law. There were of two
kinds, the other temporary,
which were perpetual were
of general custom, the new
customs, and the custom in

The temporary included
portage, a rate of four
denarii in loads, and two
denarii per ton in goods, and
the other, &c., of movable
goods, which is also
common sense, of the word
reprobation, to the custom laws.

The general customs were
of the expectation of wool
and leather. The petty cus-
tom paid by merchant strangers
consisted of one-half over and
above customs payable by natives.

and portage was a duty
imposed at different times from
and assessed to them, which
every one of wares, and from
a toll upon every parcel
passing up into the kingdom.
In granting it was not to be,
as might have been ready to
be seen, because demanding it
was of the realm or the guard.

This kind of subsidy ap-
peared a parliamentary or pri-
vate statute mentioned by Lord
Coke printed in 47 Ed III.
In 1290 it was granted for

limited periods, and express provision
was made that it should have intermis-
sion, and vary, lest the king should retain
it as his duty. The duties of tonnage
and portage were granted to Henry V.
for his life with provision that it should not
be drawn into a precedent for the future.
However, notwithstanding the proviso,
it was never afterwards granted to any
king for a term period. These duties were
formed while Lord Coke was controller
of the treasury, for around a
year. In the course of the argument in
the case of stoppage in 1564 under I,
the king's duties are said to amount to
100,000. This probably was the approxi-
mate of the customs and tonnage and
portage.

Subsidy in its more usual and limited
sense consisted of a rate of 3s. in the
pound on the goods, and 2s. 6d. on goods,
and duties upon the goods of others.

The taxes called *tithe fifteenth*, were
the tenth or fifteenth part of the value of
movable goods. Other portions, such as
the fifth eighth eleventh part, were some-
times, but rarely also levied. These
taxes seem to have had a parliamentary
origin. There are instances of the
king ever having attempted to collect
them as of right. Henry III. received a
fifteenth in return for granting Magna
Charta and the Charter de Foresta.

In the earlier periods never more than one
subsidy and two fifteenths were granted.
About the time of the expectation of the
Armeda of 1413, a double subsidy and
four fifteenths were granted. The then
chancellor of the exchequer, Sir Walter
Middleton, when moving for it, said, "His
heart did quake to move it, not knowing
the inconveniences that should grow upon
it."

The inconveniences did grow very
fast, for trade and commerce subsided
and six fifteenths were granted in the
same reign. These grants were to have
been at intervals of about four years at
that period. Subsidies and fifteenths
were originally assessed upon each indi-
vidual but subsequently to the 4 Edward
III., when a taxation was made upon all
the towns, cities, and boroughs, by com-
missioners, the fifteenth became a more
certain being the fifteenth part of their
then existing value. After the fifteenth

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in the same reign. These grants were to have
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then existing value. After the fifteenth

was granted by parliament, the intestate's estate was given. The intestate never having been married, and having no issue, it was held upon such purpose in respect of his lands and goods. But it appears that a person paid only in the county, and he paid even though he possessed property in other counties. And as the intestate's property was given to him, it was held to be paid in more than one county where it was held, and he paid only. It is also stated that the intestate actually received his estate. In the eighth year of the reign of Elizabeth it amounted to £1,000, and the intestate to £1,000 only. Lord Coke is mistaken in saying that the intestate died in the reign of James I. or Charles I. at which time the intestate received by the crown which was destined from the intestate at £1,000, and the intestate at about £1,000. Essentially the intestate was a soldier, and a land tax substituted for it.

See last, 4 last, 'Habeas Corpus, &c., 2 State Trials, 371, ed. 1800. The Case of Sir John Mordaunt, 4 State Trials, 22, ed. 1800. V. Mordaunt, 10, 'Prerogative,' Comyn's Dig., 10, 'Parliament,' Prerogative, &c. (Citations).'

SUCCESSOR. This is a legal term derived from the Roman "successor," which is a coming into the place of another and successor is one who comes into such place.

The Roman term signifies a coming into the place of another as to have the same rights and obligations with respect to property which that other had. There might be succession either by coming into the place of a person living, or by becoming the successor of one who was dead. *Grav. de 77, de successione* of successors in the case of persons living, and the case of which is the Roman Law according to the Law Julia. Succession was again either universal or singular. The extension of universal succession per universitatem, which means (1) *ut*, successors are those who made a person, a person getting the possession of the funds of another by buying all a man's property and putting a person by delegation and administering a man into the man's estate as a whole in all which cases all the property of the several persons enumerated passed at

once to the person who was or got the funds in possession of the whole property, and by delegation or assignment. An instance of this is the taking of a legacy under a will.

The term *successor* is of language. We speak of the crown, or the royal dignity, and implies that the things referred to the king, and a person's power, not upon the fact that he is heir in strictly a sense. The law takes the descent of his ancestor as a matter of fact, the crown takes the descent of his personal property, and the crown takes the descent of his personal property. The person is not a successor in the law, but a successor in the law.

The Roman law says that a person is a successor of another person, whether into one person, and by a perpetual succession of persons continuing for ever. It is when members of a corporation are appointed and succeed to the office, but they do not succeed to the Roman law of succession, but become members of the corporation. It has been established in the Roman law, and it is the word "successor" in the Roman law, and yet it is certain that the word "successor" is not a grant. In a sentence it is a word the word "successor" is. The succession in the case of a person living, the nature of the succession, in the case of a person living, there is a succession of persons, and yet it is certain that the word "successor" is not a grant. In a sentence it is a word the word "successor" is. The succession in the case of a person living, the nature of the succession, in the case of a person living, there is a succession of persons, and yet it is certain that the word "successor" is not a grant. In a sentence it is a word the word "successor" is.

SUICIDE. This is the death caused by his own act, voluntary.

A receipt of the law is received that those who are from impotence of pain, from

inquest to be held de se is considered as having died in mortal sin, and his remains were formerly interred in the public highway without the rite of Christian burial, and a stake was driven through the body. But by the Stat. Geo. IV. c. 56, the coroner or other officer by whom the inquest is held is required to give directions for the private interment of the remains of any person against whom a finding of fact de se shall be had, without any stake being driven through the body, in the churchyard or other burial ground of the parish in which the remains of such person might by the law or customs of England be interred, if the verdict of the jury shall not have been taken within twenty-four hours from the finding of the coroner, and to take place within the hours of day and twelve at night, without performance of any of the rites of Christian burial.

The Code Penal of France contains no legislation on the subject of suicide. Of the modern codes of Germany, some contain no provisions, and others vary in their particular provisions. In the Bavarian and Saxon codes suicide is not mentioned. The Prussian code forbids all interments of the dead body of a self-murderer under ordinary circumstances, but declares that it shall be buried with out any marks of respect otherwise suitable to the rank of the deceased, and it directs that if any reprieve has been pronounced, it shall, as far as it is feasible, be executed, due regard being had to decency and propriety, on the dead body. The body of a criminal who commits self-murder to escape the execution of a sentence pronounced against him is to be buried at night by the common executioner, at the usual place of execution for criminals. The Austrian code simply provides that the body of a self-murderer shall be buried by the officers of justice, but not in a church-yard or other place of common interment.

SUIT is a legal term used in different senses. The word *suita*, which is the Latin form, is from *sequi*, to follow, and hence the general meaning of the word may be deduced.

1. A suit in the sense of litigation, is a

proceeding by which any legal or equitable right is pursued or sought to be forced in a court of justice. A suit is usually brought in a court of law, but may also be commenced in a court of equity. The term *suit* is also applied to proceedings in a court of admiralty and consistory.

2. *Suit of court*, in the sense of obligation to follow, that is, to attend and assist in conducting, a court civil or criminal.

Suit civil, or rather suit royal, is an obligation under which all the vassals within a lord or town are bound, except of their own private will, to attend the king's criminal court in district, whether held before the sheriff and called the *assise*, or before the officers of such justices, and so called *leet*. [Leet.]

Suit personal is an obligation of the civil courts of the lord under the superior lord lands or tenements, that is, other suit services or services. If freehold lands, &c. be held of a lord immediately, or, as it is termed, in *chief*, suit service is performed attendance at the county court held by the king's officer, &c. &c. unless the lands, &c. are held of a lord by *tenancy*, in which case the suit is performed before the lord who is the *lord of the court*. If freehold lands, &c. are held mediately of a lord, but immediately of a tenant, the tenant is bound to attend the court of the lord, as part of the service, unless the court is reserved upon the other case suit service is required, impliedly reserved upon the other case, as part of the service, and he rendered for the estate in *chief*.

Manors, where there is a *manorial* or *customary* estate, the lord is obliged to attend upon the court of the manor, but as this obligation is annexed by tenure to the land held by copyholder, but is a *service* in the position as tenant of a lord, it is not a *suit* but a *service*. In the case of freehold lands attending as *tenants* of the court, the court is the *court of the lord*.

Victoria by which it is declared, that
 the name of the college shall hereafter
 be The Royal College of Surgeons of
 England and that a portion of the main
 body of the said college shall be known
 thereof by the name of The Professor of
 the Royal College of Surgeons of Eng-
 land. The charter declares that the
 present president and two vice presidents
 and all other the present members of the
 council of the said college were and shall
 continue and being less than six and not
 more than ten, and being members of
 the said college, as the council of the
 college, at any time before the expiration
 of three calendar months from the date
 of the charter shall elect and declare by
 the following manner by the charter is
 directed to, other with any such other
 persons as the council of the said college
 after the expiration of the said three
 calendar months and within one year from
 the date of the charter shall appoint in
 manner by the charter authorized shall
 be fellow of the said college that no
 person, except an individual free, born in
 Britain or abroad and as he is to have
 attained the age of twenty five years, and
 conspired with such rules as the council
 of the college shall think fit and by a
 majority of four parts of five shall be
 able to have passed a special examination
 by the council of the said college.
 Every person admitted as a fellow as
 last mentioned is to become a member
 of the college by his admission, if he is
 not already a member. Hereafter the
 members of the college who are not a fel-
 low, is to accept to be a member of the
 council. There are also to be some other
 restrictions as to eligibility. The present
 members of the council are to continue
 till January as last before and the
 number of members of council is to be
 increased from twenty-one to twenty
 four and of future members are to be
 elected and to be elected periodically in
 the manner prescribed by the charter is,
 when the number of electors members
 of the council shall be completed and
 make up the twenty four. The members
 shall go and accordingly that they may be
 elected immediately. The members
 of council are to be elected by the fel-
 lows, including the members of the council

[illegible]

The members of the body
instead by daylight when
twelve the center of a room -
Argentine winds upon them

any in any part of the

of the College have at
respected certain quali-
education, &c. from our
minutes. The regulations
dated October 1844.

every of members are con-
sidered of the candidate desired.

The questions are almost
entirely and excepted and
one of each candidate occur-
ring and a half during
he is usually questioned by
the members in attendance.

In the financial statement
the receipts of the College
for the year were as follows:—

Subscriptions, fees			
and at an aug-			
mentative of	£	s.	d.
	14,003	11	0
		12	10
of the date,			
on	100	0	0
on interest			
percentage			
on	1,400	0	4
	£15,763	7	10

Expenditure was as follows:—

Salaries, the			
of the court			
auditors,			
of the sala-			
	7,402	10	1
Salaries, the			
of the sala-			
	3,000	0	10
Salaries, the			
of the sala-			
	1,120	12	7
Salaries, the			
of the sala-			
	100	10	1
Salaries, the			
of the sala-			
	253	10	0
Salaries, the			
of the sala-			
	204	4	0
	£13,987	5	1

of the College consists of

the collection made by John Hunter, which was given in trust by government, who purchased it for £5,000, and of numerous additions made to it by donations of members and others, and by purchase. The parts of it which illustrate physiology, pathology, and morbid anatomy are probably the most valuable collections of the kind in Europe.

Lectures on anatomy for which £100, were left in the company of barter sur-
geons by Edward Aikin, and 100 per
annum by John Smith, are delivered an-
nually by one of the members of the
college or some other member selected by
them. Twenty-four museum lectures are
also, in compliance with the deed of trust,
annually delivered by the Hunterian pro-
fessor the subject of which must be illus-
trated by preparations from the Hunterian
collection, and from the other contents of
the museum. An oration in commemora-
tion of John Hunter is of address who
have been distinguished in medical sci-
ence is delivered annually on the 14th of
February, the anniversary of Hunter's
birth.

Abstracts of the several acts and char-
ters relating to the College of Surgeons
may be found in Willcock's 'The Laws
relating to the Medical Profession,' Lon-
don, 1840, 8vo, and in Paris and Van-
denbrughe's 'Medical Jurisprudence,' vol.
II. The bye-laws, the list of members,
the catalogues of the museum and library,
&c., are published by the college. The
dissection of human bodies is now regu-
lated by 2 & 3 Will. IV. c. 7. [ANATOMY
ACT.]

REVERSIONARY. "Necum additio
property is a yielding up of an estate for
life or years to him that both an imme-
diate estate in reversion or remainder,
wherein the estate for life or years may
be given by mutual agreement between
them' (Co. Litt. 341. l. 1.) A surrender
and a release both have the effect of
uniting the particular estates with that in
reversion or remainder, but they differ
in this, that whereas a release operates
only by the greater estate descending
on the loss, a surrender is the falling of
the less estate into the greater. As to
the difference between REVERSIONARY and
REVERSIONARY, see REVERSIONARY.

Coke mentions three kinds of surrenders: 1. A surrender at common law, which is the surrender properly so called; 2. A surrender by custom of copyhold lands or customary estates; and, 3. A surrender improperly taken, as of a deed, a patent, or a rent newly created, and of a fee simple to the king. (Co. Litt. 316 a.)

As to surrender of copyholds, see **COPYHOLD**.

A surrender may be made of letters-patent and offices to the king, to the intent that he may make a fresh grant of the same right and a grant of two second patents for years to the same person, for the same thing, which is a surrender in law of the first. (10 Rep. 66.)

SUBSTITUTION is, according to Cowell's Interpretet, "one that is substituted or appointed in the room of another, most commonly of a bishop or a bishop's chancellor."

The qualifications required in persons appointed as surrogates are defined and enforced by the canons of 1603. The person who undertakes the office without being qualified is subject to certain penalties. (10th, 12th, 13th, 14th, c. 1.)

The principal duty of ecclesiastical surrogates consists in granting probates to wills, letters of administration to the effects of intestates and marriage licences. The proper performance of these duties is guarded by particular enactments. (2nd of the Canons of 1603 and 3rd Canon; Gibson, *Code*, tit. xxv, c. 1.)

Surrogates are also persons appointed to execute the offices of judges in the courts of Vice Admiralty in the Colonies, in the place of the regular judges of those courts. The acts of such surrogates have, by the 56 Geo. III. c. 82, the same effect and character as the acts of the regular judges.

SURVIVOR, **SURVIVORSHIP**
[MORTGAGE, p. 858.]

SUZERAIN. [FEDERAL SYSTEM, p. 22.]

SWEARING, a profane use of the name of the Deity. By the 11th Canon, churchwardens are to protect those who offend their brethren by swearing, and *notoriam* offenders are not to be admitted to communion until they are reformed.

Profane cursing and swearing made an offence punishable by Jan. 1 c. 21 (continued by 34 Geo. II. c. 4, and 6 and 7 c. 11). The 19 Geo. II. c. 11 that if any person shall curse or swear, and be convicted thereof, or on the oath of one before any magistrate, he shall forfeit his day labour, common school, or common law, if any other person of the degree of gentleman, or above the degree of a gentleman, every second conviction shall carry three and sixpence, and ten shillings for the third and subsequent offences. The penalties are to be paid to the parish. Parties may pay the penalties and costs demanded and kept to hard labour for the penalties, and discharge the costs. Magistrates and constables to grant them if they will do their duty under the act. Can be prosecuted except 40 days after having committed it. By 22 Geo. II. c. 24, persons to the navy who are guilty of swearing are liable to be court-martialled.

(Chan. Dig., Justice of Peace, & Justice, 'Swearing'.)

T

TACK is the technical term for a lease whether of land or other real estate, and the tenant (the tacker), this system of lease having attracted some attention and being really important, a separate of more precise or particular description. The Scottish law, long in duration, especially does not partake of it, but is between landlord and tenant, and the feudal system. It is possible to trace the origin of the system of the nature of the agreement. He held not as party to a lease by a covenant conveyed to landlord, called *reversion*, however, there was no party

Duration 5. **Reservation**, if there be any rights such as that in minerals or game reserved by the landlord. 6. **Landlord's Meliorations** containing such obligations to improve the subject as the landlord undertakes. 7. **Warranties or guarantees of the title** given to the tenant. 8. **Rent-charges**. 9. **Tenant's Meliorations** setting forth such improvements as the tenant undertakes. 10. **Preservation**, containing the tenant's obligation to keep the building, fences, &c., in repair. 11. **Insurance**, in which the tenant becomes bound to insure the buildings, crops, &c., against fire. 12. **Distress**. This clause, a remnant of feudal rancour, is now comparatively rare. It binds the tenant to deliver his corn at the mill of the landlord. 13. **Management**. 14. **Bankruptcy** providing in general for the landlord's remedy in case of the lease if the tenant becomes bankrupt. 15. **Hereditament** by which the tenant engages to vacuate the premises at the prescribed term. 16. **Reference**, providing for arbitration of disputes. 17. **Mutual Performance**, indicating penalties to be paid by the party failing. 18. **Representation for covenants**. 19. **Restoration**. 20. **Testing clause**, containing the formulae of the execution of the contract. Of these the clause of management is the most important. It is now much disputed how far it is good policy to bind the tenant to the observance of a particular system of agriculture. In the highly improved districts where very acute farmers are expected the tenant is generally more capable than the landlord of estimating the value of improved systems. Agricultural chemistry, and other means of increasing the produce of the soil, are at present the object of much attention in active farmers, and where tenants cannot alter a fixed routine without the risk of a law suit, an embargo is laid on the practical application of improvements. The landlord's chief interest in a fixed routine being preserved, is simply the preservation of the land from deterioration towards the conclusion of the lease. On the subject of the usual provisions for management, Mr. Hunter says: "In those districts where agriculture is best understood, the following are the ordinary rules of management during the

currency of the lease. 1. When any crops ripening there shall be taken from the same land in annual succession. 2. A certain quantity to be under tithings or plough every year, and to be sown in grass and corn after tithings or plough. 3. Farm-yard dung or manure to be made from the produce of the farm. 4. Straw and hay made from the farm shall not be carried off the farm. It is sometimes added that tithings or rape or hay of any kind shall be removed or sold. And, for seeds, it is sometimes provided that less than half of the crops shall be eaten by sheep on the ground. 5. If the soil is not improved by being ploughed and sown every year, it is also stated that a part or proportion of the land shall be given and that land shall be sold, before the year expires. 6. The first five or six years of a lease shall be in fallow or tithings every year, and the rest in grass, and the tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 7. Adherence to the routine is enforced by the landlord's power to make a summary judgment in case of default. 8. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 9. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 10. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 11. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 12. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 13. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 14. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 15. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 16. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 17. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 18. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 19. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land. 20. The tenant shall be bound to pay the landlord a sum of money for the improvement of the land."

the fact." 1 760-770 (*A Treatise of the Law of Landlord and Tenant, Appendix, containing Forms of* by Robert Hunter, Esq., Advocate, 1845.)

2. TAILZIE. (KATATE.)

271b. In the law of Scotland, in which term corresponding with which word Entail, which now superseded it in colloquial use, Scotland. The early history of law in Scotland in some respects is that of England but in later they diverged from each other and there was no early effect, the statute of Westminster the 1st Edw. 1. favouring deeds and a fixed series of heirs, nor appear to have been the part which that intention to permit the to be defeated by Statute was shown in England. Devise, of a very similar character to the English statute were adopted attempts by holders under various their lands as if they were proprietors. The first and strictest law on the destined entail was in the form of prohibition, against contracting with might occasion the attaching the estate by creditors, with property, affecting the order of and the law. A provision of character, called the "Prohibitive" was however, quite insufficient to accomplish the end, because if a creditor really attached the estate for a person had been sold purchased or to grant a fee went up the title the lands that the proprietor was a prohibition against permitting otherwise. A second provision called an irritant clause, by any right acquired contrary to the law of the entail was declared to be null that did not effectually into the holder under the entail making efforts to break it and did them at its execution a sufficient interference. A third provision was called the "Resolutive clause," by the right of the person who contracted prohibition "rescued" or be defeated. It was provided by sta-

tute (1685, c. 22) that all entails should be effective which contain irritant and resolutive clauses, are duly recorded by warrant of the court of session in Registers of Entails, and are followed by recorded entries containing the Prohibitory, Irritant, and Resolutive clauses. No attempts were made to contract the Entail system by fictions of law, which are not in accordance with the genius of the law of Scotland, and it became a permanent feature in the constitutions of the country. A sort of judicial war has, however, been carried on against Entails individually, which has been productive of a vast amount of litigation and strife has occupied much judicial time, and has tended to place the titles of property in a precarious and doubtful position. An Entail is excluded from the favourable interpretation of the law. The interpretation of its clauses is to be what a learned advocate *pro* and *contra*. The intention of the tenant is never to be contemplated every blunder is to be given effect to, and nothing is to be explained by reference to the intent, if its own meaning as a sentence is doubtful. Thus, in a late case, those who held under an Entail were prohibited among other things from contracting debt to the effect of the estate being attached. The irritant clause proceeded to say "if the heirs shall contravene the premises, by breaking the Entail, contracting of debts, &c. enumerating other contraventions it was provided that "then and in any of these cases, the said venditions, alienations, dispositions, indentments, alterations, infringements, bonds, ticks, obligations, made to the contrary" should be null. It was found that proceedings by creditors to attach the estate for debt were good because they were not by name enumerated among the things that should be null, though they were prohibited, and mentioned among the things which if coming to pass should cause a nullity. (*Dundas Trustees v. Dundas*, 7th January 1842, 4 D. H. M. 524.) Some statutory enlargements have been made on the powers of persons holding under entail to provide for widows and younger children but the system is still productive of great domestic inequality, and it is to be hoped

that in no long time it will be swept away as an impediment to the improvement of the country, and an injustice to the mercantile classes.

TARIFF, a table of duties payable on goods imported into or exported from a country. The principle of a tariff depends upon the commercial policy of the state by which it is framed, and the details are constantly fluctuating with the change of interests and the wants of the community, or in pursuance of commercial treaties with other states. The British tariff underwent six important alterations from 1772 to 1842, namely, in 1787, in 1813, 1819, 1823, 1833, and 1842. The act embodying the tariff of 1833 is the 3 & 4 Wm IV c. 76. Its character has been described in the Report of a Committee of the House of Commons in 1840, on the Import Duties, as presenting "neither congruity nor unity of purpose: no general principles seem to have been applied. The tariff often aims at incompatible ends: the duties are sometimes meant to be both productive of revenue and for protective objects, which are frequently inconsistent with each other. Hence they sometimes operate to the complete exclusion of foreign produce, and in so far no revenue can of course be received; and sometimes, when the duty is inordinately high, the amount of revenue becomes in consequence trifling. An attempt is made to protect a great variety of particular interests at the expense of the revenue and of the commercial intercourse with other countries." The schedules to the act 3 & 4 Wm IV c. 76, contain a list of 1150 articles, to each of which a specific duty is affixed. The unenumerated articles are admitted at an *ad valorem* duty of 5 and of 20 per cent., the rate having previously been 2½ and 5 per cent. In 1838-9, seven thousand articles produced 944 per cent of the total customs duties, and the remainder only 4 per cent, including twenty nine which produced 38 per cent. The following table of the tariff of 1833, showing the duties received in 1838-9, is an analysis of one prepared by the *comptroller-general of imports* for the parliamentary committee to which allusion has been made:—

	No. of Articles.	£
1 Articles producing on an average less than 244 £	539	8,600
2 Do. less than 244 £	152	31,000
3 Do. less than 244 £	45	22,000
4 Do. less than 244 £	107	244,980
5 Do. less than 22,180 £	13	1,900,500
6 Do. less than 189,804 £	10	5,38,600
7 Do. less than 2,063,885	418	5,070,000
8 Articles on which no duty has been received	147	500
		8,000,000

Under the head **Customs**, mention is made of the tariff, the repeal of the duty on wool and of the duty on cotton in the same year, by an act, 8 Vict. repeal the Duties of Customs upon the Exportation of certain Goods from the United Kingdom, the duties on the Importation of coals, culm, &c. are wholly repealed.

Chaps 84 to 14 of the 8 & 9 Vict. are acts relating to Customs, Trade, Navigation, and they all came into operation on the 1st of August, 1845. Chap. 84 is "An Act to repeal the several laws relating to Customs, by which certain duties were repealed. Chap. 85 is "An Act for the Management of Customs, and regulates the appointment and duties of officers, the taking of land for warehouses, &c. Chap. 86 is "An Act for the Regulation of Customs, and for the landing, warehousing, and customing of goods. Chap. 87 is "An Act for the Prevention of Smuggling, and specifies acts which constitute smuggling, and penalties. (This Act must be added to those mentioned in Schedule B.) Chap. 88 is "An Act for the Encouragement of British Shipping and Navigation, giving, with exceptions, which are specified, certain privileges to British ships over foreign ships. Chap. 89 is "An Act for the Registering of British Vessels. Chap. 90 is "An Act for regulating Duties of Customs, and imposing duties upon certain articles. If duties are referred to in the preamble of the Tariff Act, 3 & 4 Wm IV c. 76, after mentioned. Chap. 91 is "An Act for the Warehousing of Goods.

session 2s. 6d. the cwt.; tallow-candles, 5s. the cwt., cheese, 5s. the cwt., and if from a British possession 2s. the cwt.; cured fish, 1s. the cwt., hams of all kinds, 7s. the cwt., and if from a British possession 1s. 6d. the cwt., men's hats, 2s. each, men's boots, 14s. the dozen pairs, men's shoes, 7s. the dozen pairs, women's boots and shoes, from 4s. 6d. to 7s. 6d. the dozen pairs, according to kinds, as described, maize or Indian corn, 1s. the quarter; potato flour, 1s. the cwt.; rice, 1s. the cwt., and if from a British possession 6d. the cwt.; sago, 1s. the cwt., tallow, 1s. 6d. the cwt.

The duties on manufactured goods of brass, bronze, china-ware, copper, iron and steel, lead, pewter, tin, woollen, and cotton, are 1*l.* for every 100*l.* value. On silk manufactures the duties are about one-third higher, or 5s., 6s., and 9s. the lb., according to kinds, as described, or 15*l.* on every 100*l.* value.

The duty on foreign spirits of proof strength is 15s. the gallon.

The duty on foreign solid timber, from and after April 5, 1847, is 1*l.* the load of 50 cubic feet, from and after April 5, 1848, the duty is 15s. the load. On deals or boards, the duty, from and after April 5, 1847, is 1*l.* 6s. the load, from and after April 5, 1848, it is 1*l.* the load. The Tariff of 1842 is not altered with respect to timber imported from a British possession, which is still 1s. the load of solid timber, and 2s. the load of sawn timber.

The duties on coffee and tea are not altered by the tariff. The act 8 Vict. c. 5, which fixed the sugar-duties for one year, terminated July 5, 1846, and has been renewed for a month, the subject of those duties is now under the consideration of parliament, and they will probably be altered.

TAX, TAXATION. A tax is a portion of the produce of a country or its value, applied to public purposes by the government. Taxation is the general charging and levying of particular taxes upon the community.

In a free state it is assumed that all taxation is necessary for the public good, and it is justified by necessity alone. The amount of expenditure will, in a great measure, be determined by the

magnitude of a state and by the number and importance of its political relations; yet the prudence with which its affairs are administered will affect the demands of the government upon the people nearly as much as its necessities. The expenses of a private person must be regulated by his income; but in a state, the expenditure that is needed is the means of the public income that must be obtained to meet it. A civilized community requires not only protection from foreign enemies and internal security, but towards various institutions which are conducive to its welfare. It is the business of a government to provide for these objects in the best manner and at the least expense consistent with their efficiency. Every tax should be viewed as the purchase-money paid for equivalent advantages given in return. This principle assumes the necessity of moderation in levying taxes, and will scarcely be denied by any one when stated in that form; yet it is not uncommon to hear it argued that so long as taxes are *spent in the country*, the amount is not of consequence, as the money is returned through various channels to the people from whom it was derived. The principle we have just laid down exposes the fallacy of this doctrine, by reducing it to a simple question between debtor and creditor. For example, by paying a million of money every year, the people obtain the services of an army. This we will suppose to be an equivalent, and we will further assume that the food and clothing of the force are purchased, and that the entire pay of the men is spent, within the country. The whole of the money will thus be returned, but how? Not as a free gift, not as a repayment of a loan, but in the purchase of articles equal in value to the whole sum. The only benefit obtained by this return of the million is clearly nothing more than the ordinary profits of trade, for the community has already provided the money, and then out of its own capital and industry it produces what is equal to it in value, and thus it sells to the state, receiving as payment the very sum it has itself contributed as a tax.

No branch of legislation is perhaps so important as the wise application of principles in the matter of taxation.

alth, happiness, and even the morals of the people are dependent upon the moral policy of their government.

Adam Smith lays down four general maxims, which are as follow—

I. "The subjects of every state ought to contribute towards the support of the government in proportion to their respective abilities, that is, in proportion to the revenue which they respectively enjoy under the protection of the state."

II. "The tax which each individual is bound to pay ought to be certain and not arbitrary. The time of payment, the mode of payment, the quantity to be paid, ought all to be clear and plain to the contributor, and to every other person."

III. "Every tax ought to be levied at the time, in the manner most likely to be convenient for the contributor to pay it."

IV. "Every tax ought to be so contrived as both to take out and keep out of the pockets of the people as little as possible above what it brings into the public treasury of the state."

In discussing the merits of particular taxes we shall have to consider with some accuracy the application of Adam Smith's first maxim. His justice requires enforcement or illustration, although the subject be most difficult of attainment. It is a maxim of great importance, the necessity of adhering to it must be generally acknowledged. I certainly am not to be faulted and certainly not the fault of the tax-payer, and he will be surprised in that of the contributor, that it affords a most serious impediment to the operations of trade. Notwithstanding the many evils of uncertainty it is by no means an uncommon feature in modern systems of taxation.

Under the constitutional governments of Europe, the people do not indeed suffer any violent exactions as in the Turkish empire and Persia, but industry and commerce are often restrained by irregular and ill-defined taxes. Spain affords a striking example of misgovernment, and the vicious character of its taxation is an illustration to them as well as others. "To rob our citizens of industry." "Every labourer is liable to his property taken in vacation for

government taxes, if he is not prepared to pay a half year or more in advance, according to the difficulties of the Exchequer, consequently he is often compelled to make great sacrifices in order to meet such exigencies." (*Madrid in 1835*, vol. ii. p. 137.)

"To levy a tax 'at the time and in the manner most likely to be convenient for the contributor to pay it' is always a wise policy on the part of the state. The time or manner of payment may often be more vexatious than the amount of the tax itself, and these have the evil effects of high taxation, while it produces no revenue to the state. Suppose, for example, that a merchant imports goods and is required to pay a duty upon them immediately and before he has found a market for them—he must either advance the money himself or borrow it from others, and in either case he will be obliged to charge the purchaser of the goods with the interest, or he must sell the goods at once, not on account of any commercial occasion for the sale, but in order to avoid prepayment of the tax. If he pays the tax and holds the goods, the consumer will have to repay not only the tax but the interest, and if he parts with them at a loss or too even price, trade is injured, and the general wealth and consequent productiveness of taxation proportionally diminished. To prevent these evils the Bonding or Warehousing system was established in this country, which affords the most liberal convenience to the merchant and a general facility to trade. Certain warehouses are appointed under the charge of officers of the customs, in which goods may be deposited without being chargeable with duty until they are cleared for consumption, and then the tax is paid when the article is wanted, and when it is least inconvenient to pay it.

Similar accommodation is granted on their own premises to the manufacturers of articles liable to excise duties. At present the customs bonding warehouses are confined to the ports. An extension of them to inland towns would be sound in principle, very convenient to trade, and unattended by any serious risk to the revenue or difficulty of management.

The first thing I should mention is that the tax system is a very complex one. It involves a lot of different rules and regulations that can be very confusing for many people. However, it is important to understand the basics of the tax system in order to make informed decisions about your finances. One of the most important things to know is that taxes are levied on income, property, and consumption. The tax system is designed to raise revenue for the government and to provide a means of redistributing income. It is also a way of encouraging certain types of behavior and discouraging others. For example, taxes on cigarettes and alcohol are designed to discourage consumption of these products. Taxes on income are designed to encourage saving and investment. The tax system is a very important part of our society and it is one that we all have a stake in. It is important to understand the basics of the tax system in order to make informed decisions about your finances.

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shillings, at which rate it remained till it was abolished, about seventy years after the Norman conquest. (Henry, *Hist.* vol. iii. p. 364.) A revenue still continued to be derived, under different names, from assessments upon all persons holding lands, which, however, became merged in the general subsidies introduced in the reign of Richard II. and Henry IV. During the troubles in the reign of Charles I. and the Commonwealth, the practice of laying weekly and monthly assessments of specific sums upon the several counties was resorted to, and was found so profitable, that after the Restoration the ancient mode of granting subsidies was renewed on two occasions only. (*Report of House of Commons on Land Taxes affecting Catholics, 1828*.) In 1692, a new valuation of estates was made, and certain payments were apportioned to each county and hundred or other division. For upwards of a century the tax was payable under annual acts, and varied in amount, from one shilling in the pound to four shillings, at which latter sum it was made perpetual by the 38 Geo. III. c. 60, subject, however, to redemption by the landowners upon certain conditions. But no new valuation of the land has been made, and the proportion chargeable to each district has continued the same as it was in the time of King William III., as regulated by the act of 1692. That assessment is said not to have been accurate even at that time, and of course improved cultivation and the application of capital during the last 150 years have completely changed the relative value of different portions of the soil. On account of the generally increased productiveness of land, the tax bears upon the whole a trifling proportion to the rent, yet its inequality is very great. For instance, in Bedfordshire, it amounts to 2s. 1d. in the pound; in Surrey, to 1s. 1d.; in Durham, to 5d.; in Lancashire, to 2d.; and in Scotland, to 2d. (*Appendix to Third Report on Agricultural Distress, 1881*, p. 245.) Adam Smith imagined that this tax was borne entirely by the landlord, but this opinion has been proved to be erroneous by modern political economists, who hold that the tax increases the price

of the produce of the land, and is fore paid by the consumers. It is also obviously objectionable on the ground of inequality.

A tax upon the gross rent would fall upon the landlord and be in fact a tax upon his annual income, and as such would fall with equality upon him, unless other classes of community should be liable to a proportionate deduction from their incomes for the benefit of the tax. This brings us to consider the expediency of a general tax upon all incomes.

In whatever form the tax may be levied, the contribution should be paid to come, and not from capital; and, accordingly the simplest and most equitable mode of taxation would appear to be, which, after assessing the annual income of each person arising from all sources, should take from him, directly, a proportion of his income as his share of the general contribution. Such a tax, equitably levied, would appear to be in theory with all the force and simplicity of Adam Smith's; but, practically, it is upon income must be based, and is subject to great uncertainty, and to great hardships and inconvenience.

In order to make such a tax fall upon all, in the first place, the assessment must be equal. But this is impossible, because there are many things which a man can conceal from the assessors of his income. Even if we suppose the actual income of each individual to be ascertained, the mere income tax is a most fallacious test of ability to bear taxation. One man has a fee-simple estate in land, or money funds, producing an income of £1000 a year, which land or money is his property, and may come to him after his death; another, by a life and uncertain profession, has an annual income of £1000, dependent only upon his life, but upon his and a thousand accidents. The incomes of these two men are equal, but their circumstances are unequal. Yet these two men, with an unequal world to be assessed, are charged with equal contributions. A professional man may spend the

incomes of the individuals paying them. They share, however, in the general unpopularity of all direct taxes, and it cannot be denied that they often press unequally upon particular persons. The number of windows in a house is a very imperfect criterion of its annual value, and the house-tax which has been removed was far preferable to the window-duty, which is still retained. The inequalities in the assessments were undeniable, but these might have been corrected. Under ordinary circumstances, a tax upon houses will fall upon the occupier, who is intended to pay it; but if a very heavy tax were imposed, it would discourage the occupation of houses, lessen the demand for them, and thereby diminish the rent of the landlord, or, in other words, transfer the actual payment to him. (Adam Smith, book 5, chap. ii.; Ricardo's *Political Economy*, chap. xiv.) Such a tax would be attended with very bad consequences: it would compel many persons to live in inferior houses or in lodgings, and thus diminish their comforts and deteriorate their habits of life, and by reducing the demand for houses it would limit the employment of capital and labour in building. The direct taxes upon horses, carriages, hair-powder, armorial bearings, &c., being paid voluntarily by the rich to gratify their own taste for luxury or display, are not likely to meet with many objectors. The use of such articles generally indicates the scale of income enjoyed by the contributor, and the tax is too light to discourage expenditure or to make any sensible deduction from his means.

For arguments and illustrations concerning the incidence of tithes, of taxes upon profits, upon wages, and other descriptions of direct imposts, we refer to the works of Adam Smith, Ricardo, McCulloch, and other writers upon political economy.

Indirect Taxes.—In preferring one tax to another, a statesman may be influenced by political considerations, as well as by strict views of financial expediency, and nothing is more likely to determine his choice than the probability of a cheerful acquiescence on the part of the people. All taxes are disliked, and the more

directly and distinctly they are to be paid, the more hateful they are. On this, as well as on other gross direct taxes, "or taxes upon the consumption of various articles of merchandise," Montaigne, "are felt the least people, because no formal demand is made upon them. They can be so contrived, that the people shall scarce be aware that they pay them. For this is of great consequence that the will pay the tax. He knows well that he will not pay it for himself, and the merchant who pays it in the end, can but disguise the price." (*L'Esprit des Loix*, liv. chap. vii.) This effect of indirect taxes is apt to be undervalued by writers on political economy, but it is undeniably a great merit in any system of taxation (which is but a part of general management) that it should be popular, and give rise to discontent. A tax positively injurious to the very persons who pay it without thought, is not to be defended merely on the ground that no complaints are made of it; it may be safely admitted as a principle, that of two taxes equally good in all respects, that is the best which is most acceptable to the people. The volatility, however, with which indirect taxes may be levied, makes it necessary to consider the incidents and effects of them with peculiar caution. The statesman has no warning, as in the case of direct taxes, that evils are caused by them, which are productive and which the people seems willing to pay. When industry is visibly decaying, and a failure can be traced to no other cause than the discouraging pressure of the necessity of relief, and if trade and manufactures are stagnant, and the country advancing to ruin, it is difficult to detect the existence of taxes so restraining that they are which but for them would have been greater, and still more difficult to imagine the new sources of wealth which might have been laid open if such had not existed, or had been more or had been collected at different times or in different ways.

revenue in 1841 had been more than doubled.

In 1845 coffee, the produce of British possessions in India, was admitted at the same duty as plantain coffee, viz. 4d per lb., and the effect of the reduction, in encouraging the growth of the plant in India and the consumption of the berry in this country, has already been very great, and perhaps the coffee-trade of the East may as yet be considered in its infancy. In 1843, the year before the reduction, 8,875,000 lbs. were imported from the East India Company's territories and Ceylon, and in 1846, 16,887,000 lbs. or nearly double. In 1842 the duty on foreign coffee was reduced to 4d a lb., and on coffee the produce of British possessions, to 4d and notwithstanding so extensive a reduction the revenue has not very materially suffered.

These reductions of existing duties are proved by these examples to increase the revenue, but whether the effect of them be immediate or deferred must depend upon a variety of circumstances. If the reduction produces not an extensive smuggling, the revenue will derive immediate benefit, as both the demand and the supply of the article already exist, and the reduced tax, without affecting production or consumption, gives a positive regulation, and at the same time protects the revenue from fraud. But where there is little or no smuggling, and the revenue can only be increased by means of additional consumption, the effect of reduced duties may be deferred and even remote. The article may have to be produced abroad, and labour and time may be required to procure it in sufficient quantities to meet the growing demands of the consumers, and even should the supply become abundant the higher and lower of a per cent cannot be changed in a sudden. The high price of an article may have produced it out of their reach, and as the tax which they pay have become attached to it, a favourable change may be slow to spread, and money may be hoarded, which they have learned to do with care. Thus and other causes may defer for a considerable time such an increase of con-

sumption as would make up reduced rate of tax, especially reduction has been so great as to be an extraordinary addition to the amount of consumption, before the loss made in the revenue can be repaired. But where the article on which is proposed to reduce a tax is already a general request, and the supply is not abundant, and where the tax is heavy as to restrain consumption, present loss need be apprehended, a remission of part of the tax will speedily increase of revenue, and the product. Sugar is an article of consumption. It has become a necessity of life as well as a favourite luxury, and scarcely any limit to its consumption could be raised, and the price will add materially to the price of consumption. As a part of the loss will, which the revenue might expect to recover, if the duties are reduced we may refer to the equalizing the duties on East India sugar in 1836. In that duty on East India sugar was from 2s the cwt. to 24s. In quantity imported had been 200,000 cwt., and in 1837, one year after the change, the import had risen to 302,000 cwt., in 1838 to 350,000 cwt., and in 1839, to 400,000 cwt. The tax was diminished only 10 per cent, and the revenue was more than doubled, the revenue gained considerably, the duty.

A recent financial statement serves to show how far the revenue can be increased by a reduction of an important article of consumption. The duty of 5 per cent was reduced to 4 per cent on the import of cotton, and the revenue was increased by 1,000,000. The revenue for the year ended 31st March 1840 was 1,000,000, and the year ended 31st March 1841 was 1,100,000. The annual increase, however,

At, or little more than one-half cent., instead of the 5 per cent. had been expected. This result is doubtless in part caused by a stagnation of trade, and by the want of business which prevailed in 1842, but we notice it here so the idea of an indiscriminate suppression of existing taxes, without reflection on their present amount, character, and necessities, is very unwarranted. We hold that experience alone can show the expediency of a particular tax which will not affect consumption and will at the same time decrease consumption. It is presumed that existing rates have been fixed in order to secure them, and that they are justified by experience. To add to them therefore, not that they are unprofitable for their true object, but because a general addition to the revenue is needed, is to add experience and to disturb the relation between the amount of the value of particular articles and the tax on them. In the last century it was a common error to add a general percentage increase upon all the customs, whenever the revenue was found insufficient for immediate purposes. A wiser policy must be attributed of the strange conclusion which resulted to the British tariff. Any one tax change a trade of taxes could be avoided. The tax upon which ought to be adjusted by its own sound principles, and then not be changed merely to save trouble or to avoid the unpopular suggestion of increasing duties upon particular articles for the taxation of or inventing new

taxes. *Discriminating and Protective Duties.*—The legitimate object of the State is to secure a revenue for its support, and to protect its citizens from foreign invasion. It is not its duty to protect its citizens from foreign invasion, but this object is not overlooked for the sake of revenue. It is necessary to protect the citizens from foreign invasion, and it would be well to protect any person from an invasion which was not only harmful to particular interests, but add to

the general prosperity. Unfortunately, however, the aim of most legislatures upon this point has been misdirected. They have acted upon taxation as the instrument of protection and encouragement, and, being it is such, have injured the great mass of their own countrymen, and ultimately have failed in promoting the very interests they had intended to serve. When the system of protection has existed, severe injuries and even injustices are inflicted when ever an attempt is made to undo the mischief which has been done. Reason and experience unite in teaching the impolicy of protective taxes, and, in our own country, it is now acknowledged by the acts of the present year (1842), which regulate the trade in grain, wool, and flour, and other articles. [Article.]

The object of a protective duty is to raise artificially the price of the produce of manufactures of the country as compared with the produce of manufactures of another. A heavy tax easily effects this object, and thus prevents competition on the part of that country whose commodities are taxed, and establishes a monopoly in the supply of these commodities in favour of the parties to whose benefit the tax was imposed. The revenue, the avowed object of a tax, so far from being improved, is here actually diminished by the exclusion of merchandise, which at moderate duties would fill the coffers of the state. The state clearly is a loser. The foreigner whose goods are denied a market, is a loser. Who then gains by these losses? Not the consumer, for the more abundant the supply, the better and cheaper will be the market, but the seller who is enabled to obtain a high price for his wares because he has a monopoly in the sale of them, is the only party who profits. The community at large suffers thereby first, by having to buy dear instead of cheap goods, or by being denied the use of them altogether; and, secondly, by being obliged to pay other taxes which would not have been required if the very articles which would have made them purchases cheaper had been charged with a moderate impost. Even the sellers, for whom all these sacrifices are made, do

which, after all, would neutralize their efforts to tax foreigners, and leave them in the same position as if they had been contented to tax none but their own subjects. In this power of retaliation lies the antidote to the evil of one state being forced to bear the burthens of another as well as its own. Every state would naturally resist such an imposition upon its subjects, and export duties can therefore only be safely resorted to in such peculiar cases as we have noticed, where foreigners are willing to pay an increased price for commodities which they must have, and which they cannot obtain so good or so cheap from any other place.

Roman Land Tax.—Under LAND TAX, ROMAN, a reference was made to this article.

The old Roman *Tributum* was in effect chiefly a land tax. It is described by Niebuhr (i. 450, *Engl. tr.*) "as a direct tax upon objects, without any regard to their produce, like a land and house tax: indeed, this formed the main part of it; included however in the general return of the census." He states that it was by the plebs that this regular tax according to the census was paid, and its name *Tributum* was deduced from the tribes (tribus of this order). All this, however, is vaguely stated and ill supported by proof. There seems no reason to doubt that the nobles (*patres*) also paid *tributum*. Livy (ii. 9) states that the plebs were released from *portoria* (port duties and tolls) and the *tributum*, in order that the rich alone might pay it. But neither is this statement satisfactory. The *tributum* is often mentioned by Livy (iv. 60; v. 10, 12, vi. 32, xxiv. 15; xxxix. 7, 44), but nothing precise can be stated about it, except that it was a tax on property, was paid in money, and applied to maintain the army after a certain date (Livy, ii. 59), and for other public purposes. The *tributum* was paid until the close of the Macedonian war, B.C. 147, when the Italian treasury was replenished by the conquest of Macedonia. It was not restored near the close of the Republican period, as is sometimes erroneously stated.

From the end of the Macedonian war

the revenue of the state chiefly arose from the taxes levied in the provinces, a great part of which were paid in kind. [TRADE ROMAN.] Italy continued free from direct taxes, though the provinces paid them, until the time of the Emperor Maximian, who established the provincial taxation in Italy. The freedom of land in Italy from all tax marked distinction between Italian and provincial land, and this was one of the peculiar privileges comprehended in the term *Jus Italicum*. When a province received a grant of the *Jus Italicum* it received with other privileges and exemption from land tax, the land was then considered to be Italian land. The provincial taxes consisted of money payments and of contributions in kind, as already stated. Under Augustus a re-arrangement was made of a general estimation of property, *cadastre*, the object of which was to change all the taxes into a money payment. We may trace the progress of this change, in Cicero's time the tenths of the province of Asia were leased to the *Publicani*; in the time of Trajan a fixed sum was paid. It appears that before the time of Ulpian, who lived under the Emperor Alexander Severus, the new system was completed, and that collected from Gaius (i. 21), who says that provincial lands were subjected to *stipendium* or *tributum*, that *tributum* must have been partially abolished even when he wrote, which was in the age of the Antonines. It is worthy of note that Cicero, *In Verrem*, contrasts the "vectigal certum," or "stipendium," a fixed payment, which at the time obtained in some cases, with the "censoria locatio," the leasing of tenths. Under the Christians, the whole country was divided into equal portions of land called *capita*, heads, of which *capita* paid a certain sum in money, and the amount of tax to be paid for each year was distributed equally over these several *capita*. The *capitatio* was renewed every fifteen years, and this was founded the use of the *capitatio* indictions, a term which survives in the term of taxation to which it is of origin. The change of payment of tax in kind into a money payment was

great financial measure, and it must have been long mature. It is that it affected the duties for the a longer season whenever the subject had or proposed to have a duty for it.

It is subject to discussion by Savigny, *Ueber die Geschichte der Reichsteuern*, p. 10, *Ueber die Rhein-Steuerreform*, by Dussan de la Malle, *Revue des Droits*, 1844, 1847, who take some of Savigny's opinions, the opinion of Savigny has been followed here.

ART. The general objects, character, and principles of taxation, and of the classes of taxes, are treated of the head of TAXATION. In this it is proposed to give a short summary of the ancient and description of paid to Great Britain and Ireland, assessed directly upon property, indirect, indirectly upon articles of import, including not only such as are paid to the general government, but also all municipal and local levies or contributions.

Principal Receipts.

The chief sources of revenue are from the taxes, as will be seen by the following statement, made up to 5th June 1842.

	Amount	Rate per cent at which collected		
	£	s	d	
Income . . .	21,821,486	5	0	4
Land . . .	15,477,074	6	7	½
Trade . . .	7,121,230	2	0	4
(Assessed),				
Wine . . .	4,730,167	4	0	0
Other . . .	1,630,274	10	0	0
On Pen- sion and En- gine . . .	5,732	1	17	0
On Land . . .	428,207	8	10	0
On Town Sanitary Rate . . .	5,662			
On Tax of Selling Office . . .	23,204			
On Customs . . .	6,150,200	6	15	½

The assessed taxes are the window-tax,

tax on male servants, taxes on carriages, on horses, on dogs, armorial bearings, house-holders' duty, game duties, stage-coach duties, and taxes on passing conveyances for hire by carriages travelling on railways. In 1840, 1841 & 1842, 17, 10 per cent additional was imposed on all the assessed taxes.

Parish-houses belonging to farms under 200 £ a year are exempt from window duty. Bachelors, except Roman Catholic clergymen, pay an additional duty of 1d. on male servants (Parishion). The charges for game duties are also under Game Laws. The duty on game is conveyed for hire by carriages travelling on railways is 5 per cent on the gross amount of the fares. As to the duties on agricultural produce, see SEPARATE CHAPTER.

To these parliamentary taxes may be added the following local assessments.

Poor-rates 10,261,220 (which includes county rates, 700,000 £.)

Church-rates 600,000 (in round numbers)

Highway-rates 1,812,812

Pump-rate (England

and Wales) 1,677,704

General duty

proceedments

(Ireland) 1,265,000

Total of local

taxes 11,106,270

(Parliamentary Papers, 1840 (1842), 1841 (1842) (1842) 1842, 1842)

So on the year 1842 considerable

changes have been made in the Customs,

some of which changes are mentioned

under TAXES. In the Taxes also

changes have been made. The excise

duty on glass has been taken off 1842, on

the other hand since 5th April 1842,

the new duty has been in operation.

The new duty was imposed April 24th,

1842, for three years and has been re-

newed for another three years. In con-

sequence of all these changes some years

will elapse before it will be possible to

say how far the Customs & Excise will

make up for the direct reduction in

the revenue by the diminution and repeal

of the assessed taxes.

examining the total removal of some
 duties and of the warlike on glass and the
 greater duties on other goods. If
 the present duties, July 1st, the years
 1844, 1845, 1846, 1847, are compared
 there is an increase in the duties for
 1844 compared with that of 1845, of
 27%, and in the first quarter of
 1846, in which many reductions took
 effect, while business has been materially
 injured in the corresponding quarter of
 1845 by the duty on foreign manufactures
 imposed 1841 and the 4 months' Bill. The
 rates of duty these reductions have the
 effect of at least an equal revenue with
 a reduced taxation, even to be assumed,
 and at the same time the consumer and
 all classes of industrial persons are
 benefited by the reduction in taxation.

The duties of Great Britain and Ireland
 are now amount to 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

It is not to be compared the present
 amount of taxes to the total required neces-
 sary for a war expenditure. From 1807
 to 1810 the payments into the British
 exchequer from taxes and loans in one
 year amounted to less than 100,000,000
 and in 1813 rose to the enormous sum of
 170,000,000.

There was published under the direc-
 tion of the Poor-Law Commissioners in

The Poor-Law Commissioners
 The Full Poor Rate 1. The
 Rate 2. The Highway Rate
 3. The Lighting and Watching
 The Mill Rate 4. The
 5. The Church Rate 6. The
 7. The Poor Rate 8. The
 9. The Poor Rate 10. The
 11. The Poor Rate 12. The
 13. The Poor Rate 14. The
 15. The Poor Rate 16. The
 17. The Poor Rate 18. The
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 89. The Poor Rate 90. The
 91. The Poor Rate 92. The
 93. The Poor Rate 94. The
 95. The Poor Rate 96. The
 97. The Poor Rate 98. The
 99. The Poor Rate 100. The

The nature of many of the
 rates may be derived from
 the articles referred to in
 the article. The nature of some
 are not particularly marked
 the nature is fully explained
 in the article under the direction
 of the Poor-Law Commissioners.

The list of rates thus
 comprehends—1. Turnpike
 Road Rates 2. The

L

the States —

including the
Shore-Watching Rate,
the Survey and Va-
lue Date

of the State 4,076,893

to the 507,507

to the County and
High Rate Not known

all the State Unknown

Shore-Watching Rate do.

Survey Rate 1,919,812

Shore-Watching and Watching
Rate Unknown

State Date Not needed

State Date 188,812

for date, and the
total amount Tax-

Mining 92,897

rest of the country Unknown

and Land-Water Rates,
Water-Water Rate 'The
and Power Rate Unknown

ity Dates { County Total }
Total Dates { from the } 1,956,457
ough Dates { Port Date }

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and from 200, 241

£11,406,859

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and that the local location of
and Water may be a small
water surface but this con-
sistently also as shown and which
valued under ground as found
amount of which water may
be found.

They are the first hints were almost
it is now almost 700,000,000.
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The first hint of the first hint
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I have the honor to acknowledge the receipt of your letter of the 1st inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
 Yours, J. Hall
 Edinburgh

The Local Taxes in Portland are distributed by Mr. Hinton under the following heads:

I Administration of Justice, which includes Criminal Prosecutions, Court Houses and County Buildings, Sheriff Police, Town Police, Prisons, II Internal Revenue which includes Constitution House, Turnpike House, Highway House and Bridges, III Navigation, IV Fire Company, which includes, Direct Municipal Taxes, Petty Customs, Miscellaneous Duties, V Relief of the Poor, VI The Church and Education, which includes The Church of Scotland, Education, VII Miscellaneous Taxes.

Mr. Justice observed "that the money deposited in the Agricultural Settlement Bank and in a private bank, in various respects, of the nature of a loan. The amount of money actually loaned by local institutions in England is not accurately known. The sum of £1,250,000 is the approximate amount given by Mr. Justice."

The Land (then owned in Ireland) was divided under the following heads in the work published under the direction of the Free Land Commission, viz.

- I. General Jury Laws in all the counties including counties of cities and towns;
- II. Poor Rates in the County, comprising every townland and denomination of land in Ireland;
- III. Licensing of Gaming, and Betting Houses in all cities, towns, and boroughs where they are subject to the provisions of the statute;
- IV. Borough Rates in certain boroughs;
- V. Pipe Water Rates in every city and town except Dublin, Cork, and Limerick which give title to a franchise or lordship;
- VI. Parish Rates in all parishes, towns, or chapelrys in Ireland;
- VII. Rates for deserted children (in all parishes in Ireland except those in the city of Cork);
- VIII. Ministerial Money in cities and towns corporate in Ireland;

imported, and a corresponding increase in the quantity and variety of the exports to China has taken place. The exports of tea from the United Kingdom, which formerly did not exceed a quarter of a million lbs. annually, amounted to 4,347,112 lbs. in 1841, and have averaged above three million lbs. a year since the opening of the trade, a fact which shows that prices here are no longer so much above those of the principal continental ports. The quantity retained for consumption has also considerably increased, although accompanied by an extraordinary increase in the use of coffee.

The tea-duty produces about one-twelfth of the total revenue. The tariff of 1812 made no alteration in the tea-duty. As it was foreseen that on the opening of the tea-trade there would be a considerable reduction of price, and that an *ad valorem* duty would not, even with the increased consumption, be so productive as formerly, a fixed duty of 2s. 1d. per lb. was imposed in 1836. Up to March, 1840, each of the hundred thousand tea-dealers in the United Kingdom was visited once a month by the officers of excise, who took an account of his stock, and no quantity exceeding six pounds could be sent from his premises without a permit, of which above 800,000 were required in a year. The number of tea-dealers in 1840 was 82,794 in England, 13,611 in Scotland, 12,774 in Ireland: total 109,179. Tea is now sold by the importing merchants by public auction and private sales.

The following table shows the net amount which the tea-duty has yielded in the United Kingdom in each of the following years, being the present century, and, to some extent, it is an index of the prices in each year.

	£		£
1801	1,123,670	1841	3,077,668
1810	3,447,797	1842	4,084,957
1820	3,484,226	1843	4,407,642
1830	3,987,097	1844	4,524,193
1840	3,172,864		

Between 1831 and 1841 the population increased 14 per cent, and the increase in the consumption of tea was 34 per cent. The low prices of 1830, and the general prosperous condition of the

country, raised the quantity of tea for consumption to nearly 400,000 lbs. In 1840 prices were about 100 per cent higher, large classes of people were in a distressed state, no consumption of tea to 32,000,000 lbs. the distress still continued, were lower, and the consumption above 1,000,000 lbs. On the 1st of 1841, the stock of tea in London, Bristol, Glasgow, and 30,418,410 lbs., and at the end of the period in 1841 the quantity was 100 lbs. The proportion of China tea consumed in England is 5 to 1, but in the United States of green tea is greatest.

The duty on tea is still 100 per cent. It is certain that an increase of tea would follow a demand duty.

(*Papers issued by the Chinese Consul, Amoy, 1st Feb. 1841.*)

The total exports of tea from Europe and America exceeds 100,000,000 lbs. Russia is supplied with tea from Kalkuta, the United States receive about 800,000 lbs. per annum at 2,000,000 lbs., and imports about 2,000,000 lbs.

TELLERS OF THE EXCH. were the holders of an office in the Exchequer. They were to receive the duties were to be paid into the Exchequer of the king, to give the clerk of the Exchequer a roll of parchment in which to enter the money — *per* according to the warrant of the receipt, and to make weekly books of receipts and payments for the Exchequer. (*1st Inst.*, 108; tit. 'Court, D. 4, 11, 15'. The abolished by act of parliament, Wm. IV. c. 10, together with the clerk of the Exchequer and the Treasurer of the Exchequer, and the Receiver of the Exchequer, was a performance of the duties of the Exchequer. (*1st Inst.*, 108; tit. 'Court, D. 4, 11, 15'.)

TENANCY, (1841.)

TENANCY, JOINT

TENANCY IN COMMON

TITLE.

TENANCY IS COPARCENARY.

TENANT Tenants, in the more extended sense of the word, are of two kinds, distinguished from each other by the nature of their estates, such as in fee simple, in fee tail, for years, at will, and at sufferance.

TENANT AND LANDLORD The tenant, in the more limited legal sense which is also the popular sense, is who holds land under another, to whom he is bound to pay rent, and who is his landlord. The word land not only land itself, but also all such as buildings, houses, woods, water which may be upon it. Any one who has an estate in land, provided also in possession, may let the land to another. Where the letting takes place by an express contract between the parties, the contract is called a lease, the terms of which is explained generally under the word LEASE. The loss of a lease will destroy the tenancy, provided the lease exists and the terms of it are complied with.

The relation of landlord and tenant is created otherwise than by a lease. If one man with the consent of another occupies his land, a contract of letting is assumed to have been made between them, and the occupier is tenant to the owner. Such contracts are considered to be upon the footing as if the lands had been let for a year, dating from the commencement of their occupation. At the end of the first year, a second year's rent begins, unless six months' notice be given to determine the contract, or the lease is renewed by either party to the contract from year to year. The general law applies to cases where a person enters to occupy land after the expiration of a lease made by deed, but in such cases all the covenants of the lease as to payment of rent, repairs, and the like, are in force, and the lease is cancelled by destroying the deed, and even if there should be a covenant for a different rent, at a different time, unless the lease is renewed. [Doct.]

Besides tenancies for fixed periods, a tenancy may exist at will and by sufferance. [LEASING.] The law as to landlord and tenant generally applies so far as it is not restricted or varied by the particular circumstances of a contract between the parties, and so far as the circumstances render it applicable, to the case of the letters and occupiers of lodgings.

In every case where the relation of landlord and tenant exists, either by express or by implied contract, certain terms are implied by law to have been agreed upon by the parties as forming part of the contract. It is of course in the power of the parties, where the contract is express, to qualify these terms so implied by the language of the contract itself. But it may be observed that as these terms are comprehensive of their nature, and distinctly understood in law, the interests of parties are often better consulted by leaving them to the general protection afforded by these implied terms than by attempts to define by enumeration in detail the respective rights and duties of the landlord and tenant. The terms implied on the part of the landlord are, that the tenant shall quietly enjoy the premises without let or hindrance from the landlord, and the part of the tenant, that he will pay rent, keep the premises in repair to a certain extent, as hereafter mentioned, and use the land, &c. in a fair and husbandlike manner.

When the landlord is himself tenant of the premises to a superior landlord, and neglects to pay his rent, and the occupying tenant is called upon to pay it to the superior landlord, he may do so, and set it off against the rent due from him to his own landlord. If a tenant has covenanted without exception or reservation to pay rent during the term, for which the lease has been granted to him, he will be bound to pay it, even if the premises should be destroyed by fire or other casualty. If he should have assigned his lease to another and ceased to be in possession, he will still remain liable under his covenant to pay rent.

The rules of law as to the repairs of premises may be determined by the terms of the lease. If they are not determined

usually determines the mode in which the farm is to be treated [LEASE] Unless also the lease expressly or impliedly excludes the operation of the custom of the country, the tenant is bound to conform to it. The custom of the country means the general practice employed in neighbouring farms of a similar description, with reference to rotation of crops, keeping up fences, and other like matters. In leases of farms it is often the practice to protect the landlord against certain acts of the tenant, such as ploughing up meadow land, &c., by introducing certain provisions into the lease. These provisions may operate according to the phraseology used, either to assign a penalty or to determine the liquidated damages agreed to be paid for the act done. It is of a matter of great importance and of some difficulty to determine under which class the provisions fall. If under the first, the landlord is not entitled to the whole penalty upon the act being done, but he can only recover in an action the amount of the actual damage which has occurred. If under the second, he is entitled to the whole amount of the damages agreed on. A covenant by a tenant not to plough up meadow under a penalty of £1 for every acre ploughed is

Petard, On Fences.)

The tenant in occupation of premises is, in the first instance, liable for all taxes and rates of every kind due in respect of the premises. The party therefore who is actually in occupation is generally a matter of agreement between the landlord and tenant. The tenant shall pay all rates and taxes, including land tax, and sometimes it is provided that the landlord shall pay the rates. If, however, the landlord is bound to pay the tenant the rates, and he fails to do so, the tenant may deduct the amount from his rent, or bring an action to recover it, but this also during the current year, and he cannot afterwards claim a deduction or action, he will be held to have acquiesced in recovering them from the landlord.

Where a fixed rent has been agreed upon, has become due, and is not tendered, the landlord, with certain exceptions, can seize growing crops, kind of stock, goods, or other chattels on the premises, or distrain the tenant's goods.

to the estate of another man where a tenant claims or the title of his landlord by acknowledging, for instance, the right of entry to be visited in a stranger, or a claim to it himself, or by a condition which is expressly made into the lease, the breach of which is to be attended with a forfeiture, namely, as a condition to pay rent on a particular day, to cultivate as a particular, &c. To this tenant may be added provisions in a lease for re-entry by the landlord on the doing or the doing of certain acts by the tenant, as the commission of waste, the non-repair, &c. The covenants are not enforceable to forfeiture, or when the landlord has notice of forfeiture, or an act which is liable to re-entry, he must timely proceed in such a way as to show he intends to avail himself of his legal right. If after this notice he does not do anything which is not a forfeiture of the lease, the acceptance of rent subsequently he will have waived his right to re-enter.

Lease for years, where no period of time is agreed on, must be determined at the expiration of three years, given six months previous.

In the case of lodgings, the time, less than a year, for which they are let, or the time for which a notice is given. Thus lodgings taken by week or week require a month's notice.

Notice to quit need not be in writing, though from the greater facility of giving it, a written notice is always

It should distinctly declare the tenor, be positive to its intention, and be signed by the party giving it, or be signed by the party giving it, or be signed personally upon the party affected by it.

Second, after having given notice, the tenant to occupy, he is liable to double rent. If he does so, no notice is necessary. If he continues to occupy after the landlord has given notice, he is liable to pay double for the premises.

As to the recovery of rent by distress, the tenant is bound to deliver up possession of the premises, but if either by special agreement or by the custom of the country the tenant is entitled to the crops still standing on the land, and which are called away going crops, he may enter for the purpose of gathering them, and also use the barns and stables for the purpose of dressing them. The incoming tenant may also enter during the tenancy of the preceding tenant to plough and prepare the land.

As to the recovery of rent by distress, see Rent.

If the tenant refuses to deliver the possession of the land, the landlord may bring an action of covenant to recover it, and the process is simplified by 4 Geo. II. c. 28. (Rent, p. 63.)

By the 11 Geo. II. c. 19, and 57 Geo. III. c. 52, if a tenant, under any lease or agreement, written or verbal, though without a clause of re-entry, of lands at a rack rent, or rent of three fourths the yearly value, shall be in arrears for half a year's rent, and shall leave the premises deserted and without sufficient distress, any two justices of the county, at the request of the landlord, may go and view the premises, and fix on the most conspicuous part of them notice in writing on what day, distant fifteen days at least, they will return upon to view the premises, and if on the second day to come appears to pay the rent, and there is no sufficient distress on the premises, the justices may put the landlord into possession, and the lease shall become void. These proceedings are subject to appeal before the judges of assize for the county at the next assizes.

By 1 & 2 Vict. c. 74, where the interest of any tenant of land, for, at will, or for a time less than seven years, but not to the payment of more than one rent of less than £2 a year, shall have elapsed or been duly determined and the tenant shall refuse to quit, the landlord may serve him with a notice, a form for which is given in the act, to appear before a justice for the county, and if he fails to show satisfactory cause why he should not give up possession, the justices, on proof of the tenancy and of the expiration

of it may give possession to the landlord. If the landlord was not at the time of the proceedings lawfully entitled to possession, he will be liable to an action of trespass at the suit of the tenant, notwithstanding the act of parliament.

(*Wickfall's Landlord and Tenant*,
Cootes Landlord and Tenant.)

TENANT AT SUFFERANCE.

[ESTATE.]

TENANT AT WILL. [ESTATE.]

TENANT FOR LIFE. [ESTATE.]

TENANT FOR YEARS. [ESTATE.]

LEASE.]

TENANT IN FEE SIMPLE. [ES-

TATE.]

TENANT IN TAIL. [ESTATE.]

TENANT-RIGHT is the name for a species of customary estates peculiar to the northern parts of England, in which border services against Scotland were antiently performed before the political union of the countries. Tenant right estates were held of the lord of the manor by payment of certain customary rents and the render of the services above mentioned, and descended from ancestor to heir according to a customary mode differing in some respects from the rule of descent at common law, and were not devisable by will either directly or by means of a will and surrender to the use of the same, though they are now made devisable by 1 Viet. c. 26, s. 3. Although these estates appear to have many incidents which do not properly belong to villenage or are or copyhold, not being held at the will of the lord, or by copy of court roll, and being alienable by deed and admittance thereon, it has been determined that they are not freehold, but that they fall under the same general rules as copyhold estates. (*Doe v. Reay* 2. Hunterdon, 4 East, 271.)

TENDER. A tender is the offer to perform some act. In practice it generally consists in an offer to pay money on behalf of a party indebted, or who has done some injury, to the creditor, or to the party injured.

A tender to the amount of 40s. may be in silver, but beyond that amount it must be in gold, or in Bank of England notes payable to bearer on demand for any sum above 5l. (8 & 4 Wm. IV. c. 6.)

If a tender be made of a large sum in silver, or in country bank notes, no objection be taken at the time, silver or notes, the objection is waived, and is good to the amount in tender. The money must be actually shown, or the bag or package in which it is contained shown to the creditor, or the person to whom it is intended to be paid. This is dispensed with by action or act of the creditor, insisted upon with such strictness even though a party tell his agent or he is about to pay him, or send his hand to his pocket to get the money, yet if the creditor leaves the money of the debtor before the tender is actually produced, no tender has been made. But if the creditor receives the money, and then objects on the ground that it is insufficient, the actual production of it is necessary to constitute a valid tender. An offer must be absolute and unconditional. An offer of a large sum with a request of change, and a request of a receipt, or on the other hand, something shall be done on the part of the creditor, are not valid. An offer of a larger sum, without a demand of change, is good. A tender may be made either to the creditor actually entitled to receive it, or to an agent or servant authorised to receive it, or to a managing clerk, and will not be invalidated even if the creditor is not present when it is made. The creditor is bound to receive it, and as a general rule, if he has a reason for not receiving the money, a tender will be good to him or to his managing clerk, unless at the time when it is made he disclaims authority to receive it. A tender ought to be made to the party from whom the money is due. If the agent appointed by him to receive the money offers a larger sum than is due, the tender will be good for the full amount if the tender is made.

If the defendant in an action

the law of England, for which purpose a short recapitulation is necessary.

All land was and is held of the king either mediately or immediately. All tenures were distributable under two general heads, according as the services were free or base, and consequently there was the general division of tenures into Frank-tenement or free holding, and Villeinage. The act of Charles II (12 Car. II. c. 24) abolished military tenures, which were one kind of free services, and changed them into the other species of free services, namely free and common socage. Thus one tenure in socage was established for all lands held by a free tenure, which comprehended all lands held of the king or others, and all tenures except tenures in frankalmour, copyhold and the honorary services of grand-serjeanty and it was enacted by the same act that all tenures which could be created by the king in future, should be in free and common socage. It is particularly provided in the act which abolishes military tenures, that it shall not alter or change any tenure by copy of court-roll or any services incident thereto, nor take away the honorary services of grand-serjeanty, other than charges incident to tenure by knights' service.

Thus it appears that tenure is still a fundamental principle of the law relating to land in England.

All land in England which is in the hands of any layman is held of some lord, to whom the holder or tenant owes some service. It is by doing this service that the tenant is entitled to hold the land; his duty is a service, and the right of the lord is a seignory. The word tenure comprehends the notion of this duty and of this right, and also the land in respect of which the duty is due: the land is a Tenement. As already observed and is held either mediately or immediately of the king and ultimately all land is held of the king. He who is the owner of land in fee simple when in the legal estate that a man can have in land is not absolute owner; he owes services in respect of his fee or half, and the seignory of the lord always exists. This seignory is now of less value than it was, but still it exists.

The nature of the old feud was that the tenant had the use of the land and the ownership remained in the lord. This is still the case. The tenant has in fact a more protected title than the lord. But he still owes fealty at least, and the ownership of the land is really in the lord and not in the tenant. For a practical purpose the owner's power of enjoyment is complete as if his land were all his, the circumstance of its not being his having several important practical consequences.

Seignory in England can be inherited. If the last owner of a seignory died without heirs, and without any one of his family willing to take it, the land taken by virtue of his seignory was alienated to a person who has a right to it, not to hold it but to the king takes the land. This is the case of lands being sold to the king. If a man commits treason his lands are liable to be forfeited to the king, and his copyhold estates to the minor, in the forty and four years and conditions of the Law, Criminal, p. 183. If a man is a felon, his freehold lands are subject to forfeiture in the manner stated in Law, Criminal. These forfeitures are crown tenures.

The case of church lands is a thing peculiar. They are held of the king though no temporal services are due. This is the tenure in frankalmour which is explained under that name.

Tenure in frankalmour is exactly what it was before the act of Charles II was passed. Church lands, which are held in fee simple, owe no temporal services, but spiritual services, and the lord they are held must be a spiritual person. And this is the case with and part of the law of which no land in England is an owner. Church lands of land held by laymen, in the beneficial ownership can be sold to the lord, for all spiritual purposes, the nature of corporations,

The perfect tenure originated in the pure feudal system, in which the seignory of the lord was the legal ownership of the land, and the tenant owed his services for the enjoyment of it. The only perfect tenure now existing is Socage tenure, the services of which are certain, and consist, besides fealty, of some certain annual rent. [NOT A.C.E.]

The right of wardship was one of the incidents to military tenures. The lord had a right to the wardship of his infant tenant until he was twenty-one years of age, and this right was in many respects prejudicial to the interests of the heir. This right was abolished with the abolition of military tenures. The right of guardianship to an infant tenant in socage only continues to the age of fourteen; but the act of Charles II. (12, c. 24) gave a father power by deed or will, executed as the statute prescribes, to appoint a guardian to any of his children till their full age of twenty-one, or for any less time. See 1 Vict. c. 26. The guardian in socage was the next of kin to the heir, and he was chosen from that line, whether paternal or maternal, from which the lands had not descended to the heir, and consequently such guardian could never be the heir of the infant. This wardship then had no relation to tenure.

If the services due in respect of a perfect tenure are not rendered by the tenant to the lord, he may distrain, that is, take any chattels that are on the land in respect of which the services are due; and an imperfect tenure so far resembles a perfect one, that a reversioner can distrain for the services due from the tenant of the particular estate.

A right still incident to a seignory such as a subject may have is that of escheat, which happens when the tenant in fee simple dies without leaving any heir to the land, and without having incurred any forfeiture to the crown, as for treason. Such a right exists by virtue of a seignory created before the statute of Quia Emptores. It has been observed that the acquisition by escheat is not a purchase, because the escheated land descends as the seignory would have descended. Forfeiture is another right

incident to a seignory, and it may be
in consequence of any act by which the
tenant breaks his fidelity fealty to his
lord of whom he holds. It also
extends to other cases than treason
felony. This subject is explained under
FORFEITURE, and TENANT AND LORD
LORD When lands are forfeited
the king for treason, or to the lord for
felony, the tenure is extinguished
generally, in whatever way it is
to the king or lord, the tenure is
necessity extinguished. If lands are
to the king, he may grant them again
fee simple.

The nature of tenure will be better understood by consulting the following articles: COPYHOLD; FEUDAL TENURE; MANOR; RENT

TERM. The law Terms are the portions of the year during which the courts of common law sit for the transaction of business. They are four in number and are called Hilary Term, Easter Term, Trinity Term, and Michaelmas Term. They take their names from those feasts of the Church which immediately precede the commencement of various acts of parliament having relation to the regulation of the courts. The statute which now determines the time of the law Terms is the 11 Geo. IV. & 1 Wm. IV. c. 27, amended by 1 Wm. IV. c. 85. It enacts that Hilary Term shall begin on the 11th and end on the 31st of January, Easter Term on the 15th of April and on the 8th of May, Trinity Term on the 22nd of May and end on the 1st of June, Michaelmas begin on the 1st of October and on the 25th of November. In all cases substituted for Sunday the first day of Term shall be the first day of Term. During Term four judges sit in each court, and are occupied in deciding matters of law only, without the intervention of a jury. The fifth judge of each court sometimes sits alone to decide matters of smaller importance. In the county courts try causes at Nisi Prius. By the statute 1 & 2 Vict. c. 42, the judges of the common law are empowered, on giving notice, to hold sittings of court for the purpose of disposing of business then pending and adjourned before them. These sittings are called

The tithes then payable were of three kinds—*predial*, *mixed*, and *personal*. *Predial* tithes are such as arise immediately from the ground, as grain of all sorts, fruits, and herbs. *Mixed* tithes arise from things cultivated by the earth, as calves, calves, pigs, mutton, chickens, milk, cheese, and eggs. *Personal* tithes are paid from the profits arising from the labour and industry of men engaged in trades or other occupations, being the tenth part of the year's gain, after deducting all charges. Watson, *On Tithes*, c. 49. It is sometimes stated that personal tithes seem to have been generally commuted for the more moderate tribute of Easter offerings, unless in fishing towns, or other places where peculiar circumstances have caused a continuance of the primitive usage. Burton, *Compend of the Law of Real Property*, § 1173.)

Tithes are further divided into *great* and *small*. The great tithes consist of corn, hay, wood, &c., the small tithes consist of the predial tithes of other kinds, together with mixed and personal tithes. This distinction is arbitrary, and not dependent upon the relative value of the different kinds of tithes within a particular parish. Pastures, for instance, grown in fields, have been adjudged to be small tithes, in whatever quantities planted. Smith & Wynn, 2 Atk., 304, where a round hay is the smallest portion still continued to be treated as great tithes. The distinction is of material consequence, as great tithes belong of right, to the rector of the parish, and small tithes to the vicar.

No tithes are paid for quarries or mines, because their produce are not the increase, but are part of the substance of the earth. There may, however, be tithes of minerals by custom. Neither are houses, considered separately from the soil, chargeable, as having no annual increase. By the common law of England no tithes are due for wild animals such as fish, game, &c. but there are local customs by which tithes have been paid from such things from time immemorial, and in those places such customary tithes may be exacted. Game animals kept for pleasure or curiosity, are also exempt from tithes.

Tithes were originally paid in kind, that is, the tenth was sent of 5 bushels or 3 pgs, as the case might be, to the parson of the parson and tithes. The inconvenience of such a mode of payment was soon felt, but no attempt had been made in the country, till very recently, to make a general improvement in the mode of collection. The inconvenience of tithes in kind must long ago have been felt, and certain modes of commutation were occasionally practised. The owner of land would receive a commutation with the parson, and with the consent of the ordinary or patron of the living, by which the land should be allotted to the parson, on conveying the same to the church, or making a gift. In other words, the owner of land chose an exemption from tithes, a stipulation between a dissenting church were recognised by law, and found that they were often, in fact, church by reason of an exemption being given for that they were exempted, as 19 and 23 Elizabeth, accordingly passed, which directed bishops, bishops, colleges, deans, hospitals, parsons, and vicars, in making any alteration of their property longer term than twenty years, or three lives. In order to obtain an exemption from tithes on the ground of real commutation, it is therefore necessary to show that such commutation had entered into before the statutes of both. Since that time commutations have rarely been made except on the authority of private acts of parliament.

Another method of redemption of tithes in kind was by a *commutation*, commonly called a *redemption*. This consists of any custom or other place, by which the mode of collecting tithes has been altered by some special instrument. In some parishes the custom is valued, the value of the parson's tithes of money annually received of land, is sent of tithes. In other places a quantity of produce is sent, the remainder is made up in labour or value of wheat instead of the

be housed or threshed by the parson.

A portion of the land of King Wales is taken from various towns has been exempted under various laws, as already explained, and by prescription, which was a compensation to have been for some time. The most frequent ground upon which the land was held by a religious house, and was therefore exempted in following manner. All priors and other heads of religious houses originally paid tithes from the lands belonging to them, and Pope II exempted all spiritual persons who tithes of lands which were their own hands. This general dispensation continued till the time of King II, when Pope Adrian IV. sent to the three king and orders of monks, Templars, and Hospitallers, and Pope Innocent III added the canons. These four orders, and of their exemption, were only called the privileged orders, and of later years in 1217, further added this exemption to monks of the order of those religious orders of monks were in possession before that time.

But a writ, however, obtained charging parts of the monasteries with payment of tithes, which would have been exempt, by which much land has been ever since free. Another mode by which lands belonging to religious houses became liable to the payment of tithes was by a writ of *assize of possession*, as the land and the rectory belonged to the same establishment, which would have paid tithes to itself. Yet these were not completely discharged from duty of possession, for, upon any writ the payment of tithes was required, and the tithes were not suspended. The act 11 Hen. VIII. which abolished several of the monasteries continued the discharge of lands from tithes, though in the reign of the king or any other person granted from the crown land, on account of this, the lands of many which were granted by the crown were tithes, and the right to

tithe and the property in many rectories are vested in laymen. Many monasteries had previously been dissolved by act of parliament, but an act of parliament as that contained in the act 11 Hen. VIII. had been introduced into other acts, the lands of the monasteries dissolved by them became chargeable with tithes.

We have stated enough concerning the nature of tithes and the various circumstances affecting them, to show how complicated must be the laws, and how entangled the interests of different parties who had to pay or to receive them. The payment of tithes in kind has been a cause of constant dispute between clergy and their parishioners. With the best intentions on both sides, the very nature of tithes is such, that disputes and difficulties must arise between them, and even where there was doubt, the form and principle of payment are not clear and discouraging. The landlords and quantity of tithes upon the ground that are well described by Dr Paley: "Agriculture is encouraged by every constitution of landed property which lets a farmer who has no concern in the improvement to a part of the profit, of all institutions which are in this way adverse to cultivation and improvement, none is so much as that of tithes. A constant share enters into the produce which contradicted no assistance whatever to the production. When years perhaps of care and toil have resulted in improvement, when the husbandman sees new crops springing to his skill and industry, the moment he is ready to put his seed to the ground, he finds himself constrained to divide his harvest with a stranger."

Moral and Political Philosophy, Chapter 23.

If tithes then be in principle an injurious and restrictive tax upon agriculture, and if the mode of collection is vexatious, it becomes the duty of a legislature to provide a remedy for these evils. But tithes are unlike any other tax, which being found injurious to the state, may be removed or improved. They are not the property of the state, they are payable not only to spiritual persons but to lay proprietors, they have been the subject of innumerable private bargains

land has been sold at a higher price on account of the exemption from the the value of the produce of the greater portion of the crops of that country is dependent upon the varying fertility of land to which, in short, the various relations of society have been for centuries so closely connected with the receipt and payment of tithes, that to have abolished them would have been to, what to many, and certainly to the community, for the whole parish would immediately have been supplied by those whose lands were discharged from payment to which they had always been liable, and subject to which they had most probably been accustomed.

As for those regions the extinction of tithes was indispensable, a commutation of them has been attempted and has been found to be unworkable. Dr. Price, who was so early the advocate of tithes, himself suggested this improvement. "No course of improvement can appear to me as practicable, nor any single alteration as beneficial, as the conversion of tithes into annuities. This conversion, I am convinced, might be so adjusted as to secure to the holder a complete and perpetual equivalent for his interest and to leave to the clergy no full operation and entire reward." *Method and Principles of Philosophy*, chapter 21. This principle of commutation was first proposed to be applied by the legislature to Ireland. In addition to the common evils of a tithing system that country was labouring under another. The mass of the people, who are Roman Catholics, were paying tithes to a Protestant clergy. Inconsequence of the payment of tithes had become so general that a commutation was deemed absolutely necessary for the safety of the church of Ireland. It was recommended by commission of fully informed parliament to that that act should be carried into effect with effect.

The statutes for the general commutation of tithes in England are the 6 & 7 Will IV c 74, the 1 Will IV and 1 Vict c 66, the 1 & 2 Vict c 14, the 2 & 3 Vict c 12 and the 3 & 4 Vict c 54. The object is to substitute a rent charge, payable in money, but in amount varying according to the average price of

corn for seven preceding years, tithes, whether payable in kind or composition, or not. A voluntary agreement between the owners of the soil and the tithes was first proposed, in case of an such agreement a commutation was to be effected by mutual consent. In case of dispute was made for the valuation and the award of tithes in every parish a survey was to be taken which comprised all the tithes in the parish to be paid in January each year of an imperial bushel of 28 lb barley, and oats, comprised a weekly average of the soil during seven preceding years and change is to be of the value of imperial bushels and parts of an imperial bushel of barley, and oats, as the same were purchased at the prices current into shillings, in case the value of wheat had risen, the value of wheat, measured in bushels, was to be one-fourth of the value of the tithes of a parish been settled by agreement or by award and that the average price for the seven preceding years for a bushel of barley and oats of the soil would then be the basis of wheat and barley, and two bushels of wheat and one bushel of barley would be the average price of the tithes in future years a sum value to the same extent of each description of crops, and such average price, will be paid to the tithes owner, and not an acre of soil. The quantity of corn but the money payment to the owner varies with the reported price of corn. Good not exacted may also be given by a receipt of any spiritual benefice only as a commutation for tithes without person, but not as a settlement 6 & 7 Will IV c 74.

By the last Report 1847 of commissioners it appears that voluntary proceedings have been entered into in 100 parishes, out of which have been received, of which have been confirmed, 5125 tithes

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[illegible]

of nobility in England
by the respective titles
of Earl, Viscount, and

Huron and the person in whom the
 dignity of the postage order was entitled
 to be designated by these words and if
 in any legal process this should be
 otherwise designated, there would be a
 mystery by which the present one would
 be vitiated, just as when a private person
 is wrongly described in an indictment,
 that or the law or the nature of the crime
 given rise to them the possession of them
 is not of honour, or it does of the dignity
 to which they correspond.

The colors of nobility in other European countries differ from our own. They have their Dukes, Marquises, Counts, Viscounts, and Barons.

Another dignity which belongs with it (the right to a trial of honor) is that of a plebeian (lower) The Honor, which is now dignity, is placed in the realm of station 1. (Honor)

London those that are the necessary
and dignities of the city, and Archbishop,
which begin with them the right to say
the others of however besides the church
by which the city itself is ruled.
Archbishop and the others of the
clergy of the persons who possess the
property in the church to certain persons
that they, and it is usual to say we are
persons who are admitted into the clerical
order the title of the sacred, with which
we formerly, and to the same name
not only to judge of a nation.

There are also men and the nations who are of the nature of a wolf among sheep though they are not usually recognized as such under the domination of the great nations. Men and nations have no other responsibility than and no other duty than to make others the victims of which become the victims to the punishment of them, and which bring with them the right to one time or another to destroy them.

All tales of horror appear to have been scripturally caused of others. The one in England had to forestall a rebellion but it does so perhaps to his injury, as the story of the V and C once of V and C had him now, had the man has forgotten now that the power of others are to be made as it is with respect to other things.

Many of these symptoms are the direct
consequence of those we have already
described. The commonest of these is the

designate in the remote ages, when there were duties to be performed. Hence hereditary titles.

The distinction which the possession of titles of honour gives in society has always made them objects of ambition. Such titles exist even in democratical states, as in the United States of North America—but they are only temporary and annexed to certain offices, as that of President. The hereditary nature of most of the chief titles of honour in European states gives them a different character.

Whoever wishes to study this subject will do well to resort to two great works—one, the late 'Reports of the Lords' Committee on the dignity of the Peerage'; the other, the large treatise on 'Titles of Honour,' by the learned Holden. The latter was first printed in 4to., 1614, again, with large additions, folio, 1631.

TOBACCO. The tobacco duty yields a gross revenue of above 4,000,000 a year; only two articles of foreign production sugar and tea, bring in a larger sum. Since 1842 the duty has been 3s. per lb. The value of the article in bond varies from 2d. to 1s. from 1815 to 1825 the duty was 4s. the lb. In 1825 it was reduced to 3s. the lb. and 2s. 9d. if it was the produce of the British possessions in America. In 1842 the duty was made 3s. also on tobacco produced in the British possessions in America. In 1780 the duty in Great Britain was only 10d. per lb., but in the following year it was increased to 1s. 3d., in 1796 to 1s. 7d., and it was successively increased at different times until it amounted to 4s. in 1815.

For the following years the consumption of tobacco and the population for each decennial were—

	Population.	Consumption.	Duty per lb.
1801	1,342,546	1,514,994 lbs.	1s. 7d.
1811	1,250,000	1,422,703	2s. 2d.
1821	1,432,181	12,988,498	4s.
1831	16,609,414	16,000,000	3s.
1841	18,785,780	15,000,000	3s.

It appears that the consumption in 1841 was considerably less than one lb. per head—in Prussia it is three lbs. It is impossible to believe that the use of tobacco has declined, or even been station-

ary, within the last few years. There is little doubt indeed of its being increased, though the returns give a different result. In 1828 only 8000 lbs. of cigars paid duty at 18s. the lb. in 1831 the duty having been reduced one shilling, 1000 were entered for consumption and in 1841 there were entered 2000 lbs. The following account shows the quantities of unmanufactured tobacco which duty was paid in the United Kingdom in the three years and a half ending 1842—

England, 1839, 15,080,245 lbs.	1840, 15,475,431 lbs.	1841, 14,800,000 lbs.	
half year ending 5th July 1842, 14,800,000 lbs.	Scotland, 1839, 2,000,000 lbs.	1840, 2,071,350 lbs.	1841, 2,000,000 lbs.
half year ending 5th July 1842, 2,071,350 lbs.	Ireland, 1839, 1,000,000 lbs.	1840, 1,000,000 lbs.	1841, 1,000,000 lbs.
half year ending 5th July 1842, 1,000,000 lbs.	United Kingdom, 1839, 17,080,245 lbs.	1840, 17,546,781 lbs.	1841, 16,800,000 lbs.
half year ending 5th July 1842, 16,800,000 lbs.			

The following are the quantities returned for home consumption and the amount of duty received in 1841 and 1842—

	1841.	1842.
Unmanufactured tobacco	22,201,230 lbs.	22,400,000 lbs.
Manufactured, as cigars	240,000	240,000
Net amount of duty received	£1,520,265	£2,100,000

There is both smuggling and adulteration of tobacco, an act was passed in 1834 (4 & 5 Victoria, c. 91) intended to be one of the sources of loss to the revenue by again subjecting the manufacturer and dealers to the supervision of the excise. Up to 1825 (with a statutory excise duty was collected on tobacco since that year the duty has been collected by the officers of the excise at the ports of importation. A system of the manufacturers' premises and registry of their operations and that of the retail dealers, were still kept by the excise though they no longer collected any duty. This system was length abolished in 1840 by the 4 & 5 Vict. c. 10. It is now partially re-

damages and suffer imprisonment. (Stat. 3 Edw. I. c. 31.)

Grants of tolls were formerly of very ordinary occurrence. But it seems to be very probable that many ancient payments of this description, though presumed, from their being so long acquiesced in, to have a lawful origin under a royal grant, were in fact mere encroachments. The evil was, however, practically lessened by the exertion of the royal prerogative of granting immunities and exemptions from liability to the payment of tolls, either in particular districts or throughout the realm; a prerogative exercised also by inferior lords who possessed *jura regalia*.

The term 'toll' is used in modern acts of parliament to designate the payment directed to be made to the proprietors of canals and railways, the trustees of turnpike-roads or bridges, &c., in respect of the passage of passengers or the conveyance of cattle or goods.

The term toll is applied to the portion which an artificer is, by custom or agreement, allowed to retain out of the bulk in respect of services performed by him upon the article, as corn retained by a miller in payment of the mill-toll, also to the portion of mineral which the owner of the soil is entitled, by custom or by agreement, to take, without payment, out of the quantity brought to the surface, or, as it is technically called, *to grass*, and made merchantable, by the mining adventurer. To collect these dues the duke of Cornwall, and other great landholders in the mining districts of the west, have their officers, called "tollers."

TOLSEY (TOLL)

TONTINE, a species of life annuity, so called from Lorenzo Tonti, a Neapolitan, with whom the scheme originated, and who introduced it into France, where the first tontine was opened in 1653. The subscribers were divided into ten classes, according to their ages, or were allowed to appoint nominees, who were so divided, and a proportionate annuity being assigned to each class, those who

the French 'Encyclopédie' division, vol. iii., p. 704. A second tontine was opened in 1660. The last survivor was a widow, the period of her death not being ascertained. She enjoyed an income of 3,500 francs from her original subscription of 100,000 francs. The last French tontine was opened in 1759. They had been found to be impracticable, and in 1764 the Council determined that this sort of institution should not be again adopted. Tontines have seldom been resorted to in England as a measure of finance, the last for which the government resorted to subscriptions was in 1783. It may be seen in Hamilton's 'Treatise of the Revenue,' p. 210. There have been numerous private tontines in this country.

TORTURE, in a legal sense, signifies the application of bodily pain to a person, for the purpose of discovering the truth from him, or from persons accused of crime, or from persons accused of crime, or from persons accused of crime. It was applied to slaves at Athens, and to freemen at Rome. (See *Orat. ad. Pontic. 11*.) It is stated that the Athenians and Romans allowed it to be applied even to freemen. (See *Orat. ad. Pontic. 11*.) but there is some doubt as to the accuracy of this statement with respect to freemen. Cicero speaks of the ancient Roman practice, and refers to the customs of an earlier age, *majorum* (See *Orat. pro Roscio. 1. Pro Milone. c. 22. 34*). However this may be, the use of torture in judicial inquiries came fully established in the time of the early emperors. The Romans used the torture as a general rule in the case of slaves when examining witnesses or offenders. Regulations relating to the mode of applying it, and limiting the occasions of its use, were early established. One of the most important of these is that which prohibited the passages above cited in legal usage, that a slave should not be tortured to give evidence against his master, except in the cases of treason, or in the case of a slave who had been

The line intersect the circle at
 the two points from the normal
 to the tangent, and thus forming
 the locus required. This locus

[illegible]

The first of these is the fact that the
 Government has been unable to secure
 the necessary funds to carry out its
 policy of maintaining the peace in
 the world. The second is the fact that
 the Government has been unable to secure
 the necessary funds to carry out its
 policy of maintaining the peace in
 the world. The third is the fact that
 the Government has been unable to secure
 the necessary funds to carry out its
 policy of maintaining the peace in
 the world.

primary political feature was interference in the Roman law learning movement and disrupted the movement and fostered proceedings by national federal while those did as they were united continental there were rather of the continent. In some German states political was unknown until the end of the 18th century although it appears traces of the Roman municipality much earlier period. Minor *Heinrich Strömpfer* (1801-1884) 'the 19th century, as from the Roman law, continued European states until the middle century when new enlightened law general conviction of the and rejection of the words of *his truth, his freedom* "quod"

of Pennsylvania was "unimpaired and
not otherwise substantially impaired" by the
loss of a day, "excepting," in the
business now being in process of
completion, that it may be necessary to
suspend the work in some of the
branches of the business. The impression
is that the loss of a day will be
small, and that the business will
be able to get on with all the
work that is now in process of
completion, and that the business
will be able to get on with all the
work that is now in process of
completion, and that the business
will be able to get on with all the
work that is now in process of
completion.

[illegible]

It may be inferred from the case of the
"Lombard" on the coast of Ireland, that

1116), as well as from the abundance of
Waters the flooding of 1750, that
torment was then unknown in England.
Nevertheless, from the year 1440 until
the 17th century, the practice of tor-
ture was frequent and the particular
torture was executed in the most cruel manner,
and the torments were made to many kinds
are still in vogue. The last instance
on record occurred in 1440 when one
Archibald, a glower, who was supposed to
have been concerned in the rebellion against
Archibald, Lord of Lennox, was
both "was racked in the lower as a
contemporary letter states, "to make him
confess his complicity." A copy of the
warrant under the great seal, authorizing
the torture in that case, is in the State
Paper Office. With this instance the
practice of torture in England ceased,
because of its continuance being consid-
ered hurtful to the common wealth or after
the dissolution. But although the practice
ceased during the two centuries
immediately to form the commonwealth,
it was not deemed as contrary to the law
of England by judges and legal writers of
the highest character who lived within
that period, such as Broomfield who

denies the practice in the strongest terms, though he does not expressly deny its existence in England. Fortescue, cap. 22), by Sir Thomas Smith, who wrote in the early part of Elizabeth's reign, and says that "torment or question, which is used by the order of the civil law and custom of other countries, is not used in England"; Smith, *Commonwealth of England*, book ii. cap. 27; and by Sir Edward Coke, who wrote in the reign of James I. (*1 Inst.* 45). Notwithstanding this denunciation of the practice as against law, both Smith and Coke repeatedly acted as commissioners for interrogating prisoners by torture (Jardine's *Reading on the Use of Torture in England*); and the latter, in a passage which occurs in the same book, and only a few pages before the words just cited (p. 25), implicitly admits that torture was used at examinations taken before trial, though it was not applied at the arraignment or before the judge. There is also a direct judicial opinion against the lawfulness of torture in England. In 1628 the judges unanimously resolved, in answer to a question proposed to them by the king in the case of Felton, who had stabbed the Duke of Buckingham, "that he ought not to be tortured by the rack, for no such punishment is allowed by our law." (Rushworth's *Collection* vol. i. p. 638.) And yet several of the judges who joined in this resolution had themselves executed the warrants for torture which they held ministerial officers and the crown. Possibly the explanation of this inconsistency between the opinions of lawyers and the practice may be found in a distinction between prerogative and law, which was better understood two centuries ago than it is at the present day. It was true, as the above author has declared, that torture was not part of the common law, and England's judges could treat the torture to be applied and no party or prosecutor could demand it or compel it. But that which was not lawful in the ordinary course of justice, was done under the prerogative of the crown, which authorized this mode of recovering crimes that affected the state, such as treason or sedition, and sometimes of offences of a private character not political,—acting in this

respect independently of and even in opposition to the common law. (See *Comment.* 20 Feb. 1., A.D. 1534.) A view of the subject is contained in a remarkable treatise that in all histories of application of torture in England warrants were issued immediately by king, or by the privy council. The sequence was that in no country torture so dangerous an abuse of power as in England. In all countries where it was part of the system it was subject to rules and regulations and determined by the law which authorized the use of it. In France, it was those who had the power were liable to severe penalties. In England there were no rules, beyond the will of the king or rack, says Selden, "as in other parts of England." In other countries it is in judgment when there is a *proditor*, a half-penny against him to see if they can make it be true, but in England they take a new order. I do not know why nor when it is of judgment, but when some say (*Table Book* "Trial").

The particular modes of torture, rack or otherwise, are now more of literary curiosity.

Although torture was so common in England under the Emperor Henry II. (1154-1171), it was declared by the Emperor Richard I. (1189-1199) that we must not always be guided by the law, but yet always refer to it. It is a thing necessary, dangerous to innocent. The opinion of lawyers in England has been stated, and the practice of the continent, in more recent times, has been taken the same subject. Mittermaier's *History of Jurisprudence*, third ed. p. 100. A curious defence of torture is in *Law of Law, or the History of Civil Law*, p. 72.

Torture has been used for two hundred years, and is one of two principal parts of this country. The same as the same thing, and the same two parts in the same country.

and, *prima facie*, every parish is a vill, and every vill a parish. Many towns, however, not only in the popular, but in the legal sense of the term, contain several parishes, and many parishes, particularly in the north of England, where the parishes are exceedingly large, contain several vills, which vills are usually called tithings or townships. As until the contrary is shown the law presumes towns (or vills) and parishes to be co-extensive, Lord Coke goes so far as to say that it cannot be in law a vill unless it hath, or in times past hath had, a church, and celebration of divine service, sacraments, and burials. But this, for which no authority is given appears to confound parish and vill, and to be inconsistent with the cases in which it has been held that a parish may consist of several vills (1 Lord Raymond, 22.) The test proposed by Lord Holt is, that a vill must have a constable, and that otherwise the place is only a hamlet, an assemblage of houses having no specific legal character. Hence a vill is sometimes called a *constablework*. Towns are divided into cities, boroughs, and upland towns, or (as we should now call them) country towns. Towns belonging to the last of these classes have been described as places which, though enclosed, are not governed, as cities and boroughs are, by their own elected officers. The Anglo-Saxon 'tun' terminates the names of a great number of places in England, and in the southern counties the farm enclosure in which the homestead stands is usually called the barton (barn-town), in Law Latin, *bertona*.

TOWN CLERK. [MUNICIPAL CORPORATIONS, p. 391.]

TOWNS, HEALTH OF. On the 14th of May, 1838, the Poor Law Commissioners presented to Lord John Russell, then Secretary of State for Home Affairs, a Report by Dr. Arnott and Dr. Kay, and two Reports by Dr. Southwood Smith, relative to the prevalence of disease among the labouring classes in certain districts of the metropolis. The House of Lords having on the 19th of August, 1839, presented an address to her Majesty requesting her to direct an inquiry to be made as to the extent of the causes of

disease stated in those Reports to prevent the Poor Law Commissioners receive a letter from Lord John Russell in which he stated that her Majesty requested them to make such inquiry, not only as to the metropolis, but as to other parts of England and Wales, and to prepare a report stating the results of such inquiry.

In 1840 the subject was investigated by a Committee of the House of Commons, the result of which was a report 'on the Health of Large Towns and Populous Districts.'

In July, 1842, the Report of the Poor Law Commissioners was presented to both Houses of Parliament, entitled 'Report on the Sanitary Condition of the Labouring Population of Great Britain with Appendices.' 'Local Reports on the Sanitary Condition of the Labouring Population of England,' were presented at the same time. Of these local reports there are twenty-six, some of which relate to certain counties and others to particular towns. At the same time were presented 'Reports on the Sanitary Condition of the Labouring Population of Scotland.' In 1843 'a Supplemental Report on the results of a Special Inquiry into the practice of Internment in Towns' was presented. On this subject see remarks under **INTERMENT**.

On the 9th of May, 1843, Commissioners were appointed by the Queen for the purpose of "inquiring into the present state of large towns and populous districts in England and Wales, with reference to the causes of disease among the labouring classes, and into the best means of preventing and securing the public health under the operation of the laws and regulations now in force, and the measures present prevailing with regard to drainage of lands, the erection, repair, and ventilation of buildings, and the supply of water, in such towns and districts, whether for purposes of health, or the better protection of property from fire; and how far the public health and the condition of the poorer classes of people of this realm, and the health and safety of their dwellings may be promoted by the amendment of laws, regulations, and usages."

The First Report of the Commission-

presented to both Houses of Parliament at the end of June, 1864. The Commission was headed by a Bishop, and consisted of 17 Bishops, of which the Report is headed, "The Committee of Special Reports are the following:—The Committee of several Towns, the most important of which are headed by W. H. Duncan, M.D., London; Lyne, by John Rous, County of York; the City of York by Thomas Rous, M.D., and Northampton, by John Hawkey, Esq. besides other matters on the Supply and Education, as to the Churches for Improvement in the Purchase of Buildings, and the Reg. of Bureaux and Houses, and the Education of Labour.

Second Report of the Committee
respecting the Influence of the
1842. It consists chiefly of the Census
and at considerable length of
the State of Maryland and
Tennessee, by H. A. Murray; Maryland
by Mr Henry J. Decker, and other
by Mr Henry J. Decker, a
on the State of Tennessee in
this, by Dr John Mayhew and
present containing information on
helping houses, and other matters
and with members of the Committee

have thus fully stated the nature
and scope of the requested investigation
as the solitary condition of the
plan of 1875. It is, therefore, clearly
the labouring and poorer classes
and extending indirectly to all

is anxious for improving the physical condition of the labouring classes. The poor are also at work Among the Health of Towns Association, of which the Committee includes Sir, directors of the trusts of public health, as further parties. They have published a 'Lecture on the Importance of Towns, and their location delivered at Grosvenor Gardens, London, by William Augustus Guyton, M.D., F.R.S., &c., &c.' and a 'Lecture on the Health of Towns, the House and Household, &c., &c.' Dec. 10, 1845, at the Mechanics' Institute at Plymouth, by Vis-

second Lexington, Mass. and a report of the Committee to the National of the Association, on the Lexington Bill,* which was introduced into Parliament at the close of the month of May.

There is no report that cases have prevailed by unbroken continuity, that the districts included by the following names, and others, by tradition, in large towns, in many small towns, and in several parts of the country, are in a very common state from want of drainage, want of cleanliness, imperfect ventilation, deficiency of water, and density of population, the consequences of which are great frequency of sickness, and even cases the affected of human life. Typhus fever, cholera, dysentery, scarlet fever, and other diseases, common to, mostly arising from causes which might have been prevented, are found to exist in an extent which it is painful to contemplate. The causes of sickness are generally most numerous and most intense in the crowded districts, and the mortality is found to be, with few exceptions, in proportion to the density of population. In the outposts, for instance the annual mortality is reported to be 1 in 4000, but only 2 per cent. in the George & Frederick Square. In the district of North Green, 5 houses, on an average, contain 200 persons, and in some cases there are 30 persons in a single house.

Of fifty towns which were visited by delegation of the Commissioners, only eight were found to be even tolerably clean as to drainage and sanitation, and as for the supply of water the reports were still more unfavorable.

The annual average mortality in England is 2.507 per cent, or 1 in 40. In London it is 2 per cent, or 1 in 50. In the metropolis the death rate is 1 in 40 in Liverpool and London in 37, in Sheffield, 1 in 40 in Bristol, 1 in 46, in Manchester, 1 in 50, in Liverpool, 1 in 50. In Glasgow they have been found to be 1 in 41. The mortality is greater in Liverpool than in any other town in England. By the return made to the Town Council of Liverpool in 1881, by the coroner, viz., it appeared that there were then 2000 courts, which contained a population of 40,000 persons. In those courts

road-parties; penal settlements; expense of the transportation system as hitherto enforced, contemplated changes in the convict discipline of the Australian penal colonies, system of transportation as enforced at Bermuda; theory of transportation.

Connected with this is the subject of *Hulks*—their origin, design, and history; description of a hulk, discipline of convicts in the hulks, employments; expense of the system.

Thirdly, *Prisons*—their state at the end of the last century, and the history of improvements in them since—the system of classification, the silent system—its theory and practical working, regulations of the prisons in which this system is in force, the labour imposed on the prisoners—the treadmill, crank machine—expense of the silent system, the separate system its theory and objections to it, its origin and history in England—principles of prison construction—employments of prisoners—expense of the system, prisons of England generally, treatment of untried prisoners, disposal of prisoners after their discharge, prisons for juvenile offenders—Parkhurst Reformatory.

Fourthly, Institutions in England auxiliary to those for punishment, or Houses of Reformation, Refuge for the Destitute, Philanthropic Institution.

Fifthly, Prisons in Scotland and Ireland, and in the British dependencies.

Sixthly, Capital Punishment, the various arguments for and against maintaining this punishment. [PUNISHMENT.]

Lastly, Progress of penal reform in foreign countries.

The statute of 39 Elizabeth, c. 4, for the banishment of dangerous rogues and vagabonds, was virtually converted by James I. into an act for transportation to America by a letter to the treasurer and council of the colony of Virginia, in the year 1619, commanding them "to send a hundred dissolute persons to Virginia, which the knight-marshal would deliver to them for that purpose." Transportation is not distinctly mentioned in any English statute prior to the stat. 18 Car. II. c. 3, which gives a power to the judges at their discretion either "to execute or

transport to America for life the most dangerous of Cumberland and Northumberland." Until after the passing of stat. 4 Geo. I. c. 2, continued by stat. Geo. I. c. 23, this mode of punishment was not brought into common operation. By these statutes the courts were given a discretionary power to order "who were by law entitled to their writs to be transported to the American plantations. Transportation to America under the statutes of George I. lasted from 1718 till the commencement of the War of Independence in 1775.

A plan for the establishment of penitentiaries, which was strongly recommended by Judge Blackstone, Mr. Howard, was taken into consideration by parliament, and the act 13 Geo. III. c. 74, for the erection of penitentiaries passed. The government failed, however, to adopt the necessary measures for its execution, and transportation was resumed by an act passed in the 22d year of George III., which empowered majesty in council to appoint a place beyond the seas, either within or without his majesty's dominions, where convicts should be transported, and by two orders in council, dated 6th December, 1768, the eastern coast of Australia and adjacent islands were fixed upon. In the month of May, 1787, the first convict-ship left England, which in the succeeding year founded the colony of New South Wales.

The present condition of a transported felon is mainly determined by the 5 Geo. IV. c. 84, the Transportation Act, which authorizes the king in council "to appoint any place or places beyond the seas, either within or without the British dominions," to which offenders shall be conveyed, the order for their removal being left to one of the principal secretaries of state. The places appointed are the two Australian colonies of New South Wales and Van Diemen's Land, the small volcanic island called Norfolk Island, situated about 900 miles from the eastern shores of Australia, and Bermuda. The 5 Geo. IV. c. 84, gives the governor of a penal colony a power in the service of a transported felon.

eat of the contractors was limited to that of supplying provisions, clothing, and other necessaries to be consumed in the hulks. The 13 George III c 17, repealed and re-enacted by the 36 George III c 27, empowers the king to appoint a person or two, an officer of superintendence, and the persons to be deputy or assistant superintendents, also resident overseers. The latter of these acts was continued by the 1 and 2 George IV for two years, and its provisions were then re-enacted with some variations, in the 5 George IV, c. 34. *Statements and Observations concerning the Hulks*, by George Holford, Esq., M.P.

From the evidence taken before a Committee of the House of Commons appointed in 1842 to inquire into the subject of secondary punishments, and before a Committee of the House of Lords in 1843, we are led to conclude that no material changes had then been effected in the discipline pursued on board the hulks.

The stations at which hulks are maintained in England are Portsmouth, Gosport, Devonport, Chatham, Woolwich, Deptford, besides Bermuda, Gibraltar is designated to be a foreign station.

The following returns relating to the hulks are taken from the reports which were made by the superintendent to the government. - On the 1st January, 1841, there were 753 convicts on board the various hulks in England, and during the year, 1625 more were received into custody, besides 33 transferred from the hulks at Bermuda. Of the convicts in custody, and those received in the course of the year, in all 7240, 2124 were transported to Van Diemen's Land, 180 of whom were boys under sixteen years of age, 833 were sent to Bermuda, 10 were transferred to the Penitentiary (Millbank) and 7 to Parkhurst prison. 262 were discharged, 13 died (being 2½ per cent upon the gross number), 1 escaped, leaving 4254 convicts on board the hulks in England on the 31st December, 1841. Of the total number received, 52 were known to have been transported* before, 10 had been in the Penitentiary, 1625 had

been convicted previously of various offences, 487 had been before in custody, and the remaining 1451 were not known to have been in prison before. The prisoners were received during the year under 17 years of age, 233 between the ages of 10 and 15, 958 between 16 and 20, 1612 between the ages of 21 and 30 years, and 833 who were over 30 years of age. The total expense of the hulks is represented for the year 1840-1 as 64,527*l* 10*s* 7*d*, and the value of the labour performed as 722,000*l*.

*Two Reports of John Howard Esq., Superintendent of Ships employed for the Confinement of Offenders under Sentence of Transportation, are to be printed 21st March, 1842. The total expense per man in the hulks in England in 1841, 12*s* 11*d*. The value of labour per man is estimated 10*l* 1*s* 9*d*, making the average net expense per man 7*l* 14*s* 2*d*. The cost per day in the hulks is 1*l* 1*s* 9*d*. The value of the labour performed by prisoners in the hulks at Bermuda is an estimated annual profit for each 13*l* 1*s* 6*d*. *Lord John Russell's Motion for Transportation and Secondary Punishment*, 8th January, 1840.*

The hulks in England are merely as an intermediate establishment between the common gaols and the penitentiaries, for prisoners sentenced to transportation, but, in fact, in many cases prove a substitute for that punishment. They are considered to be the branch of secondary punishment in England, and their discontinuance has been urged.

PRISONS (*Prison*, French; place of safe custody, of punishment, and reform.)

The history of modern improvement in the prisons of this country began with the labours of Mr. Howard in the century. In the first section of Howard's book on 'The State of Prisons in England and Wales,' which is entitled 'A General View of the Prisons,' published in 1777, he gives a summary of the abuses which existed in the management of criminals at that time. These abuses related to food, ventilation, drainage, want of cleanliness of prisoners, and the effects were dis-

* This means had been in the hulks before.

further corruption of all persons introduced into prisons.

Laborers of Howard and of others but slowly attended with success. Nearly fifty years after the date of these details the Prison Discipline Remembrances, then there yet exist many in the same condition as that in Howard left them. Numerous in effect of his statements, and of the sense with which his recommendations have been regarded. (19th Report, p. 120.) It appears by preliminary tables, that out of 518 prisons in Great Britain, to which upwards of 100,000 persons were committed in 1831, 23 prisons only were classed according to law, 63 prisons in common whatever to separate from common, 136 had only one for that purpose, 68 had only two, and so on, 23 only were according to the regulations of 1831 (George III c. 54, sect. 4) provisions had been. In 145 prisons of any description had been, and in 72 prisons, though some were performed, yet the number was very small to which employment was not had been carried on. In 1831 and to contain only 2545 persons, there were at a time 13,057 confined.

Question of Offenders.—The method of those who wished to make the point of classifying prisoners is correctly stated by a distinguished writer on penal jurisprudence. "As a place of punishment, it would soon lose its terrors if its inmates were suffered to enjoy society within, which they had always when at large; and that, instead of reformation, the prison would be the best institution that could be for extension in all the mysteries and crime, if the prisoners of were suffered to make disciples of. It may be comparatively ignorant only this evil therefore we must be considered, first, the young separated from the old, then we make a division between the new and practised offenders. Further, persons however were found indi-

penable, in proportion as it was discovered that in each of these classes there would be found individuals of different degrees of depravity, and of course not only corrupters, but those who were ready to receive their lessons. Accordingly, classes were multiplied, until in some prisons in England we find them amounting to fifteen or more. The same writer expresses the fallacy of this argument in what follows:—'But in the consideration of this question these evident truths seem not to have lost their proper force: first that no man, great or not the immediate subject of human observation, nor, if discovered, is it capable of being accurately appreciated as to a whole as to assign to each individual who may be infected with it his comparative place in the scale; and if it could be discovered, it would appear that no two individuals could be found contaminated in the same degree; secondly, that if these difficulties could be surmounted, and a new formed of individuals who had advanced exactly to the same point, not only of offence, but of moral depravity, still their association would produce a further progress in both.' (Livingston's *Penal Code for the State of Louisiana—Introductory Report to the Code of Reform and Prison Discipline*, p. 300, and also of 1784, *Evidence of Samuel Hoare, Esq., Select Committee of the House of Commons 1812*.) Classification continues to be the leading principle of arrangement in many prisons, in others the object contemplated by it, namely, the prevention of contamination, is further sought by the prohibition of oral communication between the prisoners.

Of the prisons which have been subjected to any fundamental changes during the last twenty years, the greater number are conducted on the silent system. The advocates of this system supposed that contamination would be prevented by the interdict of the tongue being prohibited. The first objection incurred in carrying out this plan was the great expense of employing a requisite number of officers to enforce silence. To mitigate or get rid of this objection, another evil was produced by the introduction of the practice of giving to per-

means of taking exercise in the open air, whenever it is necessary and proper, instead of confining him to the unbroken seclusion of his cell." (*Inspectors' Report, 1838*). Arguments both for and against this system have been urged with considerable force. *Australiana, or Thoughts on Convict Management* and *A General View of The Social System of Convict Management*, &c., by Captain Macdonell; *The Merits of a Home and of a Colonial Process, of a Social and of a Separate System of Convict Management*, by P. M. Lanes, *Reports of the Inspectors of Prisons*.)

The separate system originated in this country in the year 1796, and was first tried in the county gaol, Gloucester. This building was provided with cells in which prisoners were confined apart, day and night, from the hour of admission to that of discharge. Those confined under short sentences were denied, those under long sentences were provided with, employment. Moral and religious instruction was given in the cells and in the chapel. This discipline was enforced during seventeen years, in which period there were very few re-commitments. But the increase of population demanding increased prison accommodation, the system was abandoned to make room for additional prisoners. In 1811 the favourable opinion conceived of separation in prisons by a committee of the House of Commons led to a recommendation "that a separate prison should be erected in the first instance, for the counties of London and Middlesex, and that measures should be taken for carrying on the penitentiary system, as soon as might be practicable, in different parts of the

and after having been in operation it was abandoned, great mortality which prevailed. This mortality, it is alleged, the unhealthiness of the which the Penitentiary a connection of it with the system in the nature of a consequence." (*Inspectors' Reports*.)

A model prison on the separate system at Pentonville, London, has been completed, and others have been projected in different parts of the country, the success or failure of which will indicate whether the system should not become general. The Report of the Inspectors of Prisons contains general principles followed in the construction of the Model or Reformatory prison.

Any estimate of the expense of the separate system, or of the expense of the system, that system has been, for a long time, in operation, be liable to a dispute. The Penitentiary which is now in operation is an imperfect imitation of the separate system, the expense of each prisoner's maintenance, and of his earnings, is said to be 21s. 6d. (*John Russell's Note on the Penitentiary and Secondary Punishments*), by the advocates of the separate system, the sentence of imprisonment in prison need be only a half of the duration of a sentence in the separate system, for it to be as effective as the separate system, and that the expense will be thus made up.

The improvement in prisons has little more than commenced, even in the metropolis, where it has been long admitted to such an extent, and undiminished since. The

its scheme, besides juvenile criminals, the destitute offspring of criminals. The education given at the Society's institution, in addition to the details at the Refuge, includes the trades of printing, bookbinding, rope and twine-making. To those young men who, after quitting the institution, bring satisfactory testimonials from their masters by whom they have been employed of honesty, sobriety, and steady habits, rewards varying in amount are given at the end of one and two years respectively. This institution is entirely dependent upon voluntary contributions. (*An Account of the Philanthropic Society*, 1842, printed at the Institution.)

The prisons of Scotland were in a state of gross mismanagement when, in 1826, a Committee of the House of Commons was appointed to inquire into the subject. The recommendations of that committee, the appointment of inspectors, and the passing of an act of parliament (2 & 3 Viet. c. 46), by which the burden of maintaining prisons is removed from the royal burghs, and provided for by a general rate upon property, and their management is devolved upon county boards and upon a general board sitting in Edinburgh, have led to some improvements, and paved the way for still greater. This act, which was passed in August, 1839, is to continue in force ten years. Where system can be said to have been attempted in Scotland, it has been one of those which we have noticed in connection with England. The separate system has been for several years in force at Glasgow in respect to prisoners, the duration of whose sentence is six months or under, and, according to the reports of the inspectors of Scotch prisons, with generally good effects, although the construction of the prison in which the system is conducted is not completely favourable. The difficulty of procuring employment on release from prison has however been so great, that lately criminals in confinement at the Glasgow penitentiary, when in prospect of their liberation, have been found to threaten the commission of crimes for which they might again be sent there. Another separate prison has been established at Perth, and the extension of the

system is contemplated by the Government of direction in connection with the prisons, provision for the purpose has been made already by parliament.

The Seventh Report of the Inspectors of Prisons in Scotland is dated February 11, 1840, and gives a summary of the proceedings of the Board of Prisons to the General Prison at Perth, the proceedings with relation to the prisons, a statement of disbursements during the year 1839, and an estimate of the funds which will be required for the year 1840.

The gaols of Ireland are regulated by an act of parliament 7 Geo. IV. c. 64, passed in 1826, by which a Board of Prisons of the state of the several prisons was required from inspectors of prisons. From the reports of the inspectors a lamentable picture is to be drawn of the management of the prisons so far as 1841. Industry appears to have been only partially introduced, cleanliness where it is attempted, is of the most imperfect description, and lunatics are frequently committed to prison, being dangerous to society, of which the results are, "that each prison in the kingdom has charge of from five to ten lunatics, and even more, to the injury of the internal discipline and of the establishment, as well as of the poor individuals, as there is no accommodation for them, or for treating the disease with a view to cure." (*Report of the Inspectors of Prisons in Ireland*, 1842, p. 9.)

As to the prisons in the British dependencies, the following authorities are referred to—"Resolution passed by the Government of India on the 10th October, 1838, after taking into consideration the Report of the Committee on Prison Discipline, Calcutta, 1837; Report of the Committee on Prison Discipline to the Government of India in Council," January 4, 1839; "Report of Captain J. W. Murray on the Prisons in the West Indies," 1838; and as to Lower Canada, the Report of the Hon. D. M. M. Esquire, Quebec, 1833.

TREASON. (LAW, CRIMINAL.)

The first of these is the fact that the
 second of these is the fact that the
 third of these is the fact that the
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 fifth of these is the fact that the
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 seventh of these is the fact that the
 eighth of these is the fact that the
 ninth of these is the fact that the
 tenth of these is the fact that the

The first part of the paper is devoted to a review of the literature on the topic. It starts with a general overview of the field, followed by a more detailed discussion of the specific issues at hand. The author then presents his own findings, which are based on a series of experiments. These experiments were designed to test the hypotheses derived from the literature review. The results of the experiments are presented in a series of tables and figures, which are then discussed in detail. The paper concludes with a summary of the findings and some suggestions for future research.

I have been thinking of you very much lately,
 and wondering how you are getting on.
 I hope you are well and happy.
 I have been very busy lately,
 but I have managed to find some time
 to write you a few lines.
 I have been thinking of you very much lately,
 and wondering how you are getting on.
 I hope you are well and happy.
 I have been very busy lately,
 but I have managed to find some time
 to write you a few lines.

James P. Gordon, Esq., Secretary.

[illegible][illegible]

and connected with notions of the wars and other Events with which they are connected, from the beginning of the fourteenth century to 1830.

TRIAL. [LAW, CRIMINAL.]

TRINITY HOUSE OF DEPTFORD STROND, THE CORPORATION OF —its full title is, 'The Master, Wardens, and Assistants of the Guild, Fraternity, or Brotherhood of the most Glorious and Undevoted Trinity, and of Saint Clement, in the parish of Deptford Strond, in the county of Kent' an institution to whose members is intrusted the management of some of the most important interests of the seamen and shipping of England. The earlier records, together with the house of the corporation, were destroyed by fire in 1714, so that the origin of the institution can only now be inferred from usage and the occasional mention of its purposes in documents of a later period. It is probable that with Henry VII. originated the scheme, afterwards carried into effect by his son Henry VIII., of forming efficient navy and admiralty boards, which then first became a separate branch of public service. During the reign of Henry VIII. the arsenals at Woolwich and Deptford were founded, and the Deptford-yard establishment was subse-

quently continued by his son Edward VI. well men as women, in the parish of Deptford Strond, in our Kent.' The brethren are by charter empowered from time to time to elect one master, four wardens and assistants, to govern and regulate the guild, and have the custody and possession thereof and authority to admit natural born in the fraternity, and to commit and conclude amongst themselves and others upon the government of the guild and all articles concerning the art of mariners, and make law for the increase and relief of the same, and punish those offending against the laws, collect penalties, attend the persons or ships of offenders, and to the laws and customs of the court of Admiralty, and also grants to the corporation, franchises, and privileges, and predecessors the shipmen of England ever enjoyed.

In the 8th year of the reign of Elizabeth, an act was passed for the corporation to preserve ancient lights, erect beacons, marks, and signs, and to grant licences for the same during the intervals of their

ing interest being in the Thames, the right to erect and place buoys, marks, and signs for the sea, on the shores, coasts, or lands, or near it, and brought her to all powers respecting these matters. And it then proceeds to grant and all fees relating to them in such manner to the corporation for

as it granted the Trinity House a charter, the one now in force, in the year of his reign. It creates the great and charter, and declares it to be a corporation, and that for ever it shall consist of one master, deputy master, four wardens, and forty warden's eight assistants, and forty assistants, eighteen clerks, and a clerk. The master nominated by the charter was Poppe, then by the charter. It determines the election of these officers, and the mode of electing them from it, if necessary, and that all services and maintenance to the guild shall be younger. It directs the masters and wardens and clerks of the Trinity House to be willing to become and to apprehend those to whom it belongs. It also enables them to do so because all pilots into and the Thames, and pilots under other persons from certain offices. It also authorizes the corporation to settle rates of pilotage, &c., to be paid, &c. and to make laws as to their rules and regulations with the laws of the kingdom. It also enables them to do so to the object of keeping the pilots of the Thames secret from others, and renders the officers of the Trinity House to attend when required keep a biding. Since that time acts of parliament have been passed for the purpose of enlarging the House to regulate matters and the pilots, &c., of vessels.

Various provisions in matters of pilotage were made by the 11 Geo. 1st, entitled 'An Act for the amendment of the Law respecting Pilots

and Pilotage, and also for the better Preservation of Floating Lighthouses, Buoys, and Beacons' which recites the extent of the jurisdiction of the Trinity House as regards pilots to be upon the river Thames, through the North Channel, to or by Oxfordness, and round the Long Sand Head, or through the Queen's Channel, the South Channel, or other channels into the Downs and from, and by Oxfordness and up the North Channel, and of the rivers Thames and Medway, and the several creeks and channels belonging or running into the same, and contains a variety of other regulations respecting the examination, licensing, and employment of pilots, the rates of pilotage, provisions for drowned pilots, the protection of buoys, &c. At present, however, besides those under the jurisdiction of the Trinity House and of the Lord Warden of the Cinque Ports, many independent pilotage establishments exist in various parts of the kingdom, but the expediency of subjecting all these to the uniform management of the Trinity House has been felt for some time past. The inconvenience resulting from the existence of similar authorities vested in the hands of different parties had been felt with regard to the lighthouses on the coast, several of which had been vested in private hands by the crown, while others had been at times paid for out by the corporation itself, the lights in such instances being found to be conducted probably rather with a view to private interest than public utility. By an Act therefore of the 6 & 7 Will. IV. c. 70, passed "in order to the attainment of uniformity of system in the management of lighthouses, and the reduction and equalization of the tolls payable in respect thereof," provision was made for vesting all the lighthouses and lights on the coasts of England in the corporation of Trinity House, and placing those of Scotland and Ireland under their supervision. Under this Act all the interest of the crown in the lighthouses possessed by his Majesty was vested in the corporation in consideration of 100,000 £ allowed to the Commissioners of Crown Land Revenue for the same, and the corporation were empowered to buy up

under circumstances, whether of scarcity of employment, of isolated situation, or of combination among masters in the same business, or through an extensive district, which place the workman more or less at the mercy of his employer, the payment of wages in truck may be, and continually has been, and is still extensively, used for the defrauding and oppressing of workmen.

The following is a summary of the Truck Act, often known as Mr Littleton's Act, which was passed in 1831. It declares all contracts for hiring of the artificers afterwards enumerated, by which wages are made payable wholly or in part otherwise than in the current coin of the realm, or which contain regulations as to the expenditure of wages, to be illegal, null, and void. All payment of wages is to be in money entire, and any payment of wages in goods is declared illegal. Wages which have been paid otherwise than in the current coin of the realm are made recoverable, and in an action brought for the recovery of wages, no set-off is to be allowed for goods given in payment of wages, or for goods sold at any shop in which the employer has an interest. Employers are denied an action in return against artificers for goods which have been supplied in payment of wages. If workmen or their wives or children become chargeable to the parish, overseers may recover from their employers wages which have been earned within three months previous, and have not been paid in money. The penalty on employers making the illegal contracts or illegal payments of wages, to be for the first offence a sum not greater than 10*l*. nor less than 5*l*., for the second a sum not greater than 20*l*., nor less than 10*l*., and the third offence is declared a misdemeanour; and the employer who has been convicted, to be punishable by fine within the discretion of the convicting magistrates, but not in a sum greater than 100*l*. The convicting justices are empowered to award a portion of the penalty, which shall never exceed 20*l*., to the informer. The penalties may be sued for and recovered by any one before two justices of the peace having jurisdiction in the county, riding, city, or place

within which the offence has been committed. No justice of the peace being engaged in any of the trades or manufactures enumerated in the act, or the father, son, or brother of such person shall act as a justice of the peace under this act; and provision is made for county magistrates taking the place of borough magistrates thus disqualified. Justices are empowered to compel attendance of witnesses. Power is given to levy the penalties by distress. A member of a partnership is not liable personally for the offence of his partner, but distress may be made on the partnership property. The 13th clause thus enumerates the artificers to whom the act relates—"artificers employed in or about the making, casting, converting, or manufacturing of iron or steel, or any parts, branches, or processes thereof, or in or about the working or getting of stone, salt, or clay, or in or about the making or preparing of salt, bricks, tiles, or quarries, or in or about the making or manufacturing of any kinds of nails, chains, rivets, anvils, vices, spades, shovels, screws, keys, locks, bolts, hinges, or any other articles or hardwares made of iron or steel, or of iron and steel combined, or of plated articles of cutlery, or of any goods or wares made of brass, tin, lead, pewter, or other metal, or of any japanned goods or wares whatsoever, or in or about the making, spinning, throwing, twisting, doubling, winding, weaving, combing, knitting, bleaching, dyeing, printing, or otherwise preparing of any woollen, worsted, yarn, stuff, jersey, linen, flannel, cloth, serge, cotton, leather, fur, lamp, flax, mohair, or silk manufactures, or in or about any manufactures whatsoever made of the said last-mentioned materials, whether the same be or be not mixed one with another, or in or about the making or otherwise preparing, ornamenting, or finishing of any glass, porcelain, china, or earthenware whatsoever, or any parts, branches, or processes thereof, or any materials used in any of the last-mentioned trades or employments, or in or about the making or preparing of bone, thread, silk, or cotton, yarn, or lace made of any mixed materials." Domestic servants and servants in bus-

by the 113th section, does not extend to them except where expressly mentioned.

The trustees of turnpike roads consist of persons nominated for that purpose in the Local Acts, who must be persons possessed of a certain property qualification and of the parties of peace of the county or counties through which the roads pass but all persons who are constituted or otherwise personally interested in the roads are disqualified from being trustees. 1 Geo. IV. c. 129, ss. 61, 62 & seq. They are exempt from personal liability for acts done in pursuance of their powers, and may sue and be sued in the name of their clerk. (7 & 8 Geo. IV. c. 21, ss. 2 & 3, 4 Geo. IV. c. 129, s. 74.)

For the purpose of providing the necessary funds for making and maintaining the roads under their charge, cantons are usually empowered to raise revenue by way of subscription, upon which interest is payable to the subscribers out of the produce of the tolls which the cantons are by the local acts empowered to levy upon persons using the roads. Power is also given them to borrow money upon the charge of the tolls. (See IV. c. 126, s. 41.)

The enactment of the General Highway Act 5 & 6 Wm IV c 50, a 41, relating to summary proceedings before justices to compel repairs of highways, extended the jurisdiction of the justices to turnpike officers, where the turnpike rate of repair a part of a turnpike road, and while the latter by statute became extended, it was exigible on works a part of turnpike roads as other highways, but the old jurisdiction of the justices in the new statute was, abolished by the repeal of the Act 5 Wm IV c 50, of the statutes under which statute labour was countenanced § 1.

The amount of toll payable on any tonnage and is regulated by the table of tolls which is contained in the local act by which the trust is constituted, and tolls can be charged except such as are given by custom and standing toll language in the Act and there are various cases of tolls.

Tolls upon European-roads are in most cases made payable upon a day only at

any one gate, and payment at no
generally gives exemption from duty
at other gates within a certain
time horses having passed it, or a
gate may return toll free for a
week in the morning of the follow-
ing day, and when horses having
through a gate, return the same
within eight hours, drawing a
the toll paid on the horses
deducted. 14 Geo. IV. c. 14. s. 1.

The General Turnpike Act contains various provisions for a stop and for be allowed to transport passengers, turnpike-roads, and also for tolls for overweight, and also for regulating the amount of toll upon waggons and carts depending on the construction, load, etc. of their wheels. 4 Geo. IV. c. 16, ss. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

[illegible]

The trustees of every corporation shall have power to enter into contracts for any term not exceeding a year, with any person or persons, at a reasonable price, for the purchase, sale, or lease of any real or personal property, although not required to do so by the laws of the State, and to confer the authority to execute such contracts upon any agent or agents, not exceeding in number five persons, and, provided the same are first sanctioned in the annual meeting of the corporation, shall be made a part of the minutes of the meeting of such corporation. (Gen. Stat., c. 42, § 4.) Trustees may borrow the loan, though no power be given to the board of trustees not exceeding three years and six months. (Gen. Stat., c. 126, §§ 26, 27, 28, and c. 14, § 25, and c. 104, § 1.)

The pupillus had also an action against him for mismanagement of his property. The tutor was allowed all proper costs and expenses incurred by him in the management of the affairs of the pupillus, and he could recover them by action. Security was required by the praetor from a tutor for the due management of the affairs of a pupillus, unless he was a testamentary tutor, for such tutor was chosen by the testator, and, generally, unless he was appointed by a magistratus, for in such case he had been selected as a proper person.

The tutela of women who were puberes was a peculiar Roman institution, founded on the maxim that a woman could do nothing without the auctoritas of a tutor. But there was this difference between the tutela of pupilli and of women who were puberes: in the case of pupilli the tutor both did the necessary acts, particularly when the pupillus was infans, and gave his auctoritas; in the case of women who were puberes, the tutor only gave his auctoritas.

The Vestal virgins, in virtue of their office, were exempted from tutela. Both libertinae and ingenuae were exempted from it by acquiring the Jus Liberorum, which was conferred by the Lex Julia et Papia Poppaea on women who had a certain number of children. The tutela of a woman was terminated by a marriage by which she came in manum viri; and also by other means.

A woman had no right of action against her tutor as such, for he did not do any act in the administration of her property: he only gave to her acts their legal validity by his auctoritas.

The subject of the Roman tutela is one of considerable extent, and in the case of women it involves some difficult considerations.

TWELVE TABLES. [ROMAN LAW.]

TYRANNY. [TYRANT.]

TYRANT. The words tyrant and tyranny come respectively from the Greek *tyrannos*, *tyrannis* (*τύραννος*, *τυραννίς*) through the Latin. The earliest use of the word *tyrannus* is perhaps in the Homeric hymn to Ares (Mars). It is used by Herodotus and Thucydides, to signify a person who possessed sovereign power

and owed it to usurpation, or who bore it from a person who had obtained the power by usurpation, and who maintained it by force. Peisistratus who usurped the supreme power at Athens, and succeeded in it by his eldest son, is a Greek tyrant who obtained sovereign power as a monarch. The proper use of that term [MONARCH] is for a person who possessed sovereign power which was somewhat hereditary in its origin, he was not monarch in such case he would perhaps be called tyrant, and accordingly the word does not express with accuracy the degree of political power, but it rather expresses the mode of acquisition, or refers to its originally illegal origin. The word is used by the older Greek writers, though not with it any notion of blame. It denoted a person possessed of sovereign power as above mentioned, whether he used it well or ill. Many good tyrants were popular, and were great letters, and patrons of literature and art. They might appropriately be called kings or princes in the modern acceptance of those terms, except perhaps that the certainty of their tenure of power and want of a recognised hereditary succession in the tyranny, or a regular mode of succeeding to it, would render the application of any modern name inappropriate.

In some passages in Herodotus (i. 81, &c., vi. 23, &c., vii. 165) the words monarch and tyrant are used as synonymous to express an individual who possessed sovereign power, and in one instance (at least, vi. 23, 24) he calls the monarch king (*βασιλεύς*), and monarch monarch (*μονάρχης*). Aristotle (*Polit.* iii. 7, after talking of a polity or government must either be in the hands of one or of a few or of many, adds that we are accustomed to call a monarchy which has regard to the interests of all members of the state kingship (*βασιλεία*), and that a monarchy which has regard only to the interests of the monarch is a tyranny. The case of Melitades, who became tyrant of the Thracian Chersonesus, is mentioned by Aristotle. Thucydides (*Thucyd.* ii. 37) remarks that "all persons are considered as tyrants who possess sovereign power in a state which has no free constitution." This definition seems to pretty clearly the old Greek notion

not the person who uses the term does not like.

U.

UDAL TENURE. The Norwegian term 'Udal,' or 'odel,' appears to be the same as the German 'adel,' or 'noble.' Tenure is an improper name as applied to Udal land, for the land so called in Norway is not held by any tenure, but is free from all services. There is neither superior nor vassal, nor any of the consequences of such feudal relation as exists in many countries in Europe. (*Lange's Norway*, p. 205.)

UMPIRE. [ARBITRATION.]

UNDERWRITER. [SEMPER, p. 708.]

UNFUNDED DEBT. Exchequer bills form the principal part of the unfunded public debt. These bills are issued under the authority of parliament for sums varying from 100*l.* to 1000*l.*, and bear interest. They were first issued in the reign of William III., and although their amount has since varied greatly at different times, the convenience which they afford to individuals and their advantage to the public have been such as to ensure their constant issue. Their convenience to individuals arises from the circumstance of their passing from hand to hand without the necessity of making a formal transfer, of their bearing interest, and of their not being subject to such violent fluctuations as sometimes occur in the prices of the funded debt. This comparative steadiness in value is caused by the option periodically given to the holders to be paid their amount at par, or to exchange them for new bills to which the same advantage is extended, besides this, when a certain limited period has elapsed from the date of their first issue, they may be paid to the government at par in discharge of duties and taxes. The amount of premium that may have been paid at the time of purchase is consequently all that the holder of an exchequer bill risks in return for the interest which accrues during the time that it remains in his possession. The advantage to the public consists in the lower rate of interest which they carry compared with the permanent or funded debt of the na-

tion, in which, however, they in this respect bear some certain premium. When the price of the public debt is high, the interest upon exchequer bills will be low, and if the funds are in price so as to afford a much more profitable investment than exchequer bills, the rate of interest upon them is raised in order to prevent their passing into the exchequer in discharge of a thing which would embarrass the civil operations of government. The first issued in the reign of William III. the interest borne by exchequer bills was 5*d.* per 100*l.* per diem, being at that time of 7*l.* 12*s.* 1*d.* per cent. per annum. In the same reign the interest was afterwards lowered to 4*d.* per 100*l.* per diem, or 6*l.* 1*s.* 8*d.* per cent. per annum. In the following reign the rate was further reduced to 2*d.* per diem, or 3*l.* per cent. per annum. During the last part of the war from 1743 to 1748 the rate of interest upon these securities was fixed at 3*d.* per cent. per annum. In 1748 it was 5*d.* per cent. per annum. In the last-mentioned year the rate was progressively reduced to 2*d.* per cent. per annum, and at that rate they were in the market at the close of the derangement of the currency which was experienced in the year 1837. Under these circumstances it was considered important and desirable to relieve the Bank of England, which establishment a very important position of these securities were deposited, and to place it in the most favourable position for affording relief to the several classes, and accordingly the interest upon exchequer bills was raised to 2*d.* per cent. per diem. The last exchequer bills which were issued in 1846 bore interest at 1*d.* per cent.

In periods of commercial depression advances have been made to the public upon the security of goods, by the issue of exchequer bills. A more convenient method for their issue, apart from the immediate wants of the government, has been the desire of aiding the operations of private associations in the prosecution of works of public utility, such as roads, &c. In these cases the interest charged to the borrower is

greater than that borne by the bills, and a difference has been applied to defray the expense of management on the part of the public.

The amount of arrearages bills "not yet provided for" at the end of the under-mentioned years was

	£
1834	20,158,100
1836	24,026,000
1840	21,526,250
1842	18,102,100
1844	18,404,500

UNIFORMITY, ACT OF. (Hans. 210.)

QUINCE'S BULL. (Hulls, 12.)

IRON, IRELAND, SCOTLAND. *Quince's Bull.* pp. 504, 505, 506, 507, 508.

UNITED STATES OF NORTH AMERICA. *Government of.* The United States at the time of the formation of the Federal government in 1787, consisted of thirteen separate States, each of which at the time of their separation from Great Britain, 1776, consisted of distinct political communities, Massachusetts, New Hampshire, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia. The number of States increased to twenty-seven by the admission of the following States: Vermont, Kentucky, Tennessee, Louisiana, Indiana, Mississippi, Alabama, Maine, Missouri, Arkansas, Michigan, and Florida. In the year 1845 Texas was admitted into the Union as a State and member thereof.

The United States formed a Federal Government, which has the power to defend the Union from foreign aggression, and to maintain at home the peace and order, and to encourage and promote commerce, and for a few objects to regulate the internal legislation of the States, in which each State has the power to legislate. The States were desirous to maintain their own and direct common interest. The separate States were left to legislate, which concerns the law of the land, the jurisdiction of justice, and the exercise of power over the territory and the people, except the few which have been

either expressly withdrawn from the States, or delegated to the Federal Government.

Both the Federal and State governments are essentially democratic. In both it is assumed that the interest of the majority is the proper end of government, and that the wishes of the majority truly indicate that interest.

By the written instrument called the Constitution of the United States, the power of the Federal Government is divided into three branches, the legislative, executive, and judicial.

The legislative power is vested in two Houses. One called the House of Representatives is chosen every second year by those whom the laws of each State make legal voters. The number of representatives is not fixed, but has gradually increased from 59 in 1787 when the constitution went into operation, to 234 and two delegates. The two delegates are for the territories of Wisconsin and Iowa respectively. The representatives must be apportioned among the States according to their population, deducting two-fifths of the slaves in the States, and for the purpose of correcting the inequality of distribution arising from the vast extent of the relative number of the States, a census of the inhabitants is to be taken every ten years at which time a reapportionment takes place, and a new ratio of population to each representative may be then also adopted. The census of 1840 declares that there shall be one representative for every 33,000 persons in each State, and one additional representative for each State having a fraction greater than one-eighth of the said ratio computed according to the rule prescribed by the constitution of the United States.

The Senate consists of two members from each State chosen by its legislature, and consequently the whole number is now 54. One-third of the members is elected every second year, so that each member holds his seat for six years. In both Houses the members are ineligible.

All bills of Congress originate in the House of Representatives, which is the origin of both Houses, which is vested in the Congress of the United States. They

and acts of Congress; exercising exclusive legislation in the district of Columbia in which Washington, the seat of the General Government, is situated, and in forts, arsenals, dockyards, and all the territories belonging to the General Government, and the power of admitting new States into the Union.

The Congress is, by the same instrument, prohibited from laying any tax upon exports, from giving a preference to the ports of one State over those of another, from laying any direct tax except according to the number of inhabitants in each State who are represented in Congress, from suspending the writ of *habeas corpus*, except in case of rebellion or invasion, from passing any bill of attainder or *ex post facto* law, from granting, or permitting to be granted, any title of nobility, or from passing any law to restrict the freedom of religion, of speech, or the press.

Congress must assemble at least once in every year, which of late has been on the first Monday in December. The members of both Houses receive eight dollars for each day's attendance on Congress, and also for every 20 miles which they must travel to the seat of Government at Washington, and in their

to the injury and oppression of classes and individuals." The Carolina Convention on the revenue laws of the U. and the verb *outrage* gave the word Nullification. maintained this doctrine as a State, which is a member of Union, can nullify certain General Government. The time of nullification was the following terms: "A right in her sovereign convention to declare an invasion of Congress to be null as such declaration is of no citizens and conclusive against General Government, which we right to enforce its constitutional powers against that of the doctrine of Nullification was raised at the time in the U. The objections to it, and the rather impossibility of the the nullifiers of Carolina the purpose of getting rid of laws of the United States, an article in the North American Nullification (vol. 3, p. 10).

The executive power is President, who is

separate. In all the legislatures consist of two branches; one usually called the senate, and a more numerous branch, which is variously designated.

The time for which the senators are elected varies from one to five years. In the more numerous and popular branch the members are elected annually, except in North Carolina, Tennessee, and Missouri, where they are elected for two years. The number of members in the popular branch varies considerably. The number of the senate is usually from about one-fourth to one-half the number of the other branch.

In all the States the executive power is vested in a governor, who, in some of the States, is assisted by a council. In some he has the power of appointment to state offices, in others, merely the power of nominating persons to his council, but in most States, he has neither the one nor the other. He is chosen by the people in all the States, except in Maryland, Virginia, North and South Carolina, in which he is chosen by the legislature. His term of service varies in the different States from one to four years, and he is in some States re-eligible, and in others not.

The judicial systems are yet more various. In the greater part the judges

the twelve States lying between Pennsylvania and the river Ohio, with the States of Missouri and Arkansas. In the other thirteen, slavery had existence, or has but recently been abolished, except as to those who were born of the abolition.

The right of suffrage has various restrictions in the different States, property, residence, and length of time, but it is now no where an interest in land. In all the States votes are given by ballot, except in Virginia, Kentucky, and Arkansas, where they are given orally. In Virginia, lands can be taken for debt, in the same way as property. The common law is the law of every State, except in Louisiana, where every description have been in one code.

The revenues of the several States according to their population. Some of them, by taxation on estates and other property, by the proceeds of public lands, and other sources, have a sufficient revenue to support the ordinary expenses of the government.

[illegible][illegible]

The public land consists first of the lands which, having been once and again donated by Congress, have never been sold or ceded to the general government, and of which there are yet large tracts in most of the Western States, and in all the territories and recently, of those lands of the unincorporated territory, which lands were recently purchased of the Indians. The system adopted by Congress for disposal of these lands is well calculated to expedite settlements, to prevent disputes about titles or boundaries, and to render extensive purchases by speculators impracticable. The lands are accurately surveyed by the government, and are then laid off into tracts of townships by true meridian lines. Each township is exactly 36 miles square, and contains of course 3,600 acres. It is divided into 36 sections of 100 acres each, which sections are again subdivided into four quarter sections, each of 25 acres, and sometimes into half quarter and quarter quarter sections. The spaces between these sections and the corners of a town, or between sections are laid off into the smaller parcels of a section. When this is done, the lands are sold from time to time at public auction, provided they bring the minimum price, which is a dollar and a quarter per acre. Formerly the minimum price was two dollars and the lands were sold partly in cash but in 1870, to avoid the present inconvenience and future danger of thus placing the government in the position of creditor to a vast number of persons, Congress in 1872 reduced the minimum price, and abolished the cash sale. The public land in which the future sale has been established, and which was opened on the 1st January, 1872 was 27,000,000 acres. The business of surveying and disposing of the public lands is managed by a general land office at Washington, and numerous land offices are stationed among the western and northern States, in which are under the management of the land department.

The contents include the chief sources of income in the United States. The total revenue of the United States for the fiscal year ending June 30, 1902, was

a little more than thirty millions of dollars, with a balance in the Treasury of nearly 1 1/2 millions on the 1st July, 1844. The expenditure for the year ending June 30, 1844, was near thirty-three millions, of which the war department cost above eight millions, and the navy department cost nearly six and a half millions of dollars.

(*Geography of America, Library of Useful Knowledge, American Almanac for 1845*.)

UNIVERSITIES are lay corporations, which, since the twelfth century, have had the charge of educating the members of the learned professions throughout Europe and the colonies founded by European states. The three oldest learned institutions to which the name University can with propriety be applied are those of Paris, Bologna, and Salerno.

It is impossible to fix a precise date at which the educational institutions of Paris can be said to have assumed the form and name of a university. As for the name (*universitas*), it was not confined in the middle ages to scientific bodies; it was used in a sense equivalent to our word *corporation* [UNIVERSITY]. There were "universities of tailors" in those days. It was long before the name obtained its present limited acceptation. The school of Bologna was a '*universitas scholarum*,' that of Paris a '*universitas magistorum*,' because the former was a corporation of students, the latter of teachers. The oldest printed statutes of the university of Bologna are called '*Statuta et Privilegia scholarum Universitatis Juristarum Gymnasii Bononiensis*,' and in some universities we find a '*universitas juristarum*' and a '*universitas articularum*' side by side, from which it appears that '*universitas*' at one time approached nearly to the meaning of our word '*faculty*.' What we now mean a university was designated indifferently '*schola*,' '*studium generale*,' or '*gymnasium*.' The term '*universitas*' has also been sometimes applied to an academy, though academy has now a different meaning.

The oldest document in which the designation '*universitas*' is applied to the university of Paris, is a decretal of Innocent III., about the beginning of the thirteenth century. But as early as two decretals had been issued, one under III., the first of which says that in France no person should receive money for permission to teach. The glossa of Vicentinus says, that this prohibition was directed against the rector of the university of Paris. A second decretal alluded to a rector, then rector, Petrus Comestor, the operation of the first, and more than any legislative provision of a pope or king we find the foundation of a university laid.

To almost every cathedral and monastery of Europe there had been, from a very early period, attached a school, which all aspirants to priestly orders, and such laymen as could afford it, were instructed in the *Trivium* and *Quadrivium*. It appears from the *Chronicon Alvardi* (died 1142), and from other temporary sources, that the pope's establishments intrusted the conduct of a school to one of their members, called *Scholasticus*, and that the smaller bodies maintained a *Scholasticus* to instruct the junior pupils in grammar, philosophy, and a *Thiologus* for the more advanced in theology. At the time of Alvard's death the great number of students who flocked to the school of Paris appears to have made it necessary to assemble the teachers of pupils in different localities. Juniors were sent to the church of St. John, while the theologians resided at that of Notre Dame. All were obliged a certain time, and according to certain rules, were called to the rector of the schools to be examined by the teachers. This was done by the same steps. The candidate was examined to the rank of master (he acted for a year as assistant teacher), then to the rank of bachelor (in which he taught for a year, under the superintendence of his doctoral pupils of his own; lastly, to the grade of independent doctor. The number of students rendered the profession of a teacher at Paris lucrative, and many from other countries embraced it. According to the custom of those unsettled times, they gradually

magistrates into a kind of corporate mutual support. The corporation of the teachers of all the three schools stood under a rector elected by them. According to an agreement made in 1209, the rector was chosen by the students of the four nations—English or German, Picard, and French. Before that time, in 1200, the king had confirmed the election of the rector over all students. The local separation into the three faculties would have little consequence, but for progress which the Aristotelianism made during and immediately after the reign of Edward. The speculative studies which were led by the schools of Aristotle necessarily led to deal with topics which had been conceived to lie within the domain of theology. The controversies were frequent and bold attempts were made to modify the received opinions of the church fathers about sacraments, and similar persons. All these contributed to bring about a compromise between the school theology and the modern philosophy. The former was in possession of the pulpit and the university, the latter confined itself principally to literature and science, and sought to avoid controversy by rarely overstepping the limits of its inquiry. The progress of the new philosophy was limited in the age of the learned from the time of the school to that of Erasmus, who grew up a mass of literature, who collected, although many of them were, secondary scholars. It was the incompatibility of the free spirit of the new inquiry with the stability of a school theology which led to the controversy that embittered the dispute between the members of the established church of theology in the university of Paris about the middle of the fifteenth century. This controversy led in the secession of the doctors from the university, as it had done been ended, and their forming themselves into a separate faculty. Their example was

followed not long after by the doctors of canon law and medicine, who formed themselves into separate faculties. These faculties consisted exclusively of the actually teaching doctors (doctores regentes) of these three branches of knowledge. The masters and bachelors remained members of the university proper, which, from the secession of the theologians, canonists, and doctors of medicine, came in time to be called the faculty of the Arts. From this period the university consisted of seven bodies or corporations—the four nations under their procurators, and the three faculties under their deans. The rector was the head of the university, he was elected by the procurators of the old university, no doctor of theology, canon law, or medicine could be elected or take part in the election. At first the rector was chosen by the procurators, but latterly by four electors, specially elected by each nation for that purpose. The Prevost of Paris (so long as that officer retained any authority) was the conservator of the royal privileges in the university; the bishops of Meaux, Senlis, and Soissons, of the papal privileges. In respect to criminal jurisdiction, the university was immediately under the king, till 1280, when its members were transferred to the episcopal court of Paris about the middle of the fifteenth century they were transferred to the Parliament of Paris. In regard to civil jurisdiction the University was originally under the bishop, in 1310 it was transferred to the court of the Prevost of Paris when the Châtelet succeeded to the judicial functions of the prevost, the university was transferred to that court. The rector, with the procurators and deans formed a court, which had jurisdiction in all complaints against teachers for incompetency or neglect of duty, and against students for disobedience to the teachers the rector, or the discipline of the university, and in all cases between students, lodging keepers, bachelors, masters, &c. From the decisions of the rectorial court there was an appeal to the university and from it to the Parliament of Paris. Each faculty (that of the arts included) had its own common school. In the faculty of canon

did not result in any college that could be regarded as exceptions from the general custom, and were nicknamed "martinets." The College of the Sorbonne (founded in 1250) was commonly regarded as identical with the theological faculty, because the members of the one were most frequently members of the other also. The promotions however continued to be made by the officers of the university, although the charge of education had been in a great measure engrossed by the colleges. Degrees were conferred in the faculties of theology, canon law, and medicine, by the deans, with the concurrence of the chancellor of the Cathedral of Notre Dame; in the faculty of artists, by the rector, with the concurrence either of the chancellor of Notre Dame or the chancellor of St. Genevieve.

The oldest authentic document relating to the university of Bologna is the privilege granted by the Emperor Frederick I, at Roncaglia, in November, 1158, to all who travel in pursuit of learning, in which the professors of law are mentioned in terms of high encomium. Bologna is not named in this instrument, but history mentions no other law-school as existing at that time. The contents of this pri-

ilege are so worded as to show that the reputation for knowledge acquired by the law-teachers of Bologna had proved an introduction to state employments, honours, and fortunes, and thus attracted to it the most intelligent and ambitious youth of Europe. The reputation of Bologna as a place of study was a passport throughout Christendom. The statutes and charters of the University of Bologna are compacts entered into by students for mutual support and defence, and immunities granted them by popes and emperors. The university of Paris was originally an association of teachers; it was a corporation that protects the university of Bologna. The university of Bologna was originally an association of students. It had repaired from distant lands the celebrated teachers; it was a corporation of students. Disputes between the magistrates of the city, and between the students and professors, which occurred in 1214, are the first occasions on which we hear of a rector. From the history of these controversies it appears that students had previously been in the habit of electing the rector, and that

their own. They called themselves *philosophi et medici*, or "as in 1302 Innocent VI founded a theology at Bologna, from thenceforth there were four faculties at Bologna—two of law (which were so intimately connected, they generally speak of *ius civile* and *ius canonice* and philosophy and astronomy. Each of these had its own constitution. That of the faculty is best known, and agrees in many features with the others. *Professores* consisted of the *doctores*, who were admitted upon receipt of twelve solidi, entry, and obliged to renew annually a of absence in the recter and of the university. The *licentiati* could neither hold offices of university nor vote in its assembly. Foreign students were divided into *franki* and *utrumque*; the *franki* were divided into *seventem* and *litteratores*. The *rector* was annually chosen among the *doctores* by his predecessor in office, the *magistri*, and a number of *electores* of the *universitas*. A *rector* was chosen each nation in rotation. The *magistri* consisted of at least one representative nation from each two. The *magistri* elected annually a *syndicus*, or *magister* in courts of law, a *magister* or *treasurer* (chosen among the town-burgers), and two *magistri* to represent each nation in all civil cases in which the *universitas* was concerned, and *magistri* in which both *universitas* and *licentiati* were concerned. The *professores* were elected by *licentiati*, to whose body they were bound and whose privileges they accepted a vote of *electores*. They had the jurisdiction of the *rector* over *licentiati* and *seventem*. The *doctores* were confirmed by them previously elected. It was after the privilege of teaching, the power of *licentiati* over *seventem* and the right to the conferring of all the *licentiati*. At first there were only *doctores* of law—the *doctores* of *licentiati* came later, and were for a long

time less respected. In the thirteenth century the university began to create doctors of medicine, of grammar, of philosophy and arts, and even of the natural art. Any student who had studied five years might be licensed by the *rector* to expound a single title, or if he had studied six years, to expound a whole book of the *Pandects*. He was termed a *licentiatus*, and after he had performed his task he was declared a *baccalarius*. Selected professors appear in Bologna for the first time about 1270. The *doctores* taught in their own houses or in halls hired for the purpose; their method of tuition was by lectures, examinations, and disputations.

The history of the university of Salerno is much more obscure than the histories of the universities of Paris and Bologna. Othobonus Vitalis, whose annals close with the year 1141, speaks of Salerno as a place long eminent for its medical schools. Its most celebrated teacher, Constantine of Carthage, died 1107, was a *frank* coming from Lombardy. His school was still flourishing in 1221, when the university of Naples was established. All that can be inferred from these scanty notices of the school of Salerno is, that the scientific study of medicine was making rapid strides about the same time that law began to be more systematically studied, and philosophy and literary pursuits to be regarded as the profession of a class whose members might or might not be *professores*.

The sketch of the early constitution of the universities of Paris and Bologna will assist a person in acquiring a more exact notion of the original constitution of other universities.

The growth of universities throughout Europe was rapid. Before the thirteenth century they were established in Italy, France, the Germanic Empire, the Peninsula, Great Britain, and even among the Slavonic nations east of the Germans. There were numerous universities established in Italy previous to the year 1200 besides the three already named, within the limits of the Germanic Empire, which then extended over many provinces now incorporated in France, and over the Netherlands in Great Brit-

tain; in Spain and Portugal; in Sweden at Upsala in 1476, and at Copenhagen in 1479.

In all of these institutions we recognise the leading features of Paris or Bologna. All of them apart from the consideration of their academic character, are privileged corporations, with an independent jurisdiction more or less limited, and the power of making bye-laws. In most of them the division of the members of the corporation into nations prevails or did prevail. In all of them the faculties of philosophy or arts, theology, law (civil and canon), and medicine, are more or less fully developed. Some contain within them all the faculties, some only two or more. Almost all have a faculty of arts, which, even where it is politically the most powerful as in the university of Paris, is regarded as in a great measure preparatory to, and therefore in its scientific character inferior to the others.

The universities founded after the Reformation adopted the great outlines of the organization of their predecessors: the political corporation, the privileged jurisdiction and power of making bye-laws, the faculties and modes of conferring degrees which custom had established. But the altered circumstances of society modified considerably their external relations. The same political power was not conceded to universities that had formerly been given to them. The old were restricted in their privileges; the new never received them. The protracted strife between the Roman Catholic and Protestant churches also had its effect: universities, though no longer allowed to lay down the law, were cherished as advocates of a party. Roman Catholic and Protestant universities were erected to do battle for their respective creeds. Lastly, other sciences had their practical utility recognised, in the same way as the sciences of law and medicine had done at an earlier period. The sciences of mathematical science to the purposes of war and navigation had given an impetus to their cultivation; these new practical pursuits never produced a new faculty, but they lent greater importance to the miscellaneous faculty known as the Faculty of Arts. The

number of universities founded in Europe from the time of the Reformation down to the French Revolution was considerable. They were established in England, France, Germany, in the Swiss Provinces of Holland, in Scotland, in Dublin, in Spain and Portugal, and elsewhere.

Many events concurred to lower universities in the public estimation. The extension of elementary and secondary schools had raised the standard of education among the masses which did not receive a university education. The invention of printing operated in the same direction. The diminished privileges and restricted jurisdiction of universities had brought them to be regarded merely as schools of higher order. The increasing number of learned societies raised by a taste for non-academic literature, history, and sciences, instances in the non-academic and popular, looking only to the advancement of these sciences, forgot that the universities were indebted for their origin to the universities. The prevalence of a taste for amateur studies in science and letters, and the spirit of innovation, which accompanied the French Revolution, they too were detrimental to France the old universities have almost disappeared. In the rest of Europe, even as the storms of the Revolution passed over they continued to adapt themselves more to the social needs of the age, have in many instances started with renewed energy on a fresh career of study.

The present University system of France is peculiar the expression "University of France" is a more exact translation of the French "Université" than that of "national system of education in France." The governing body is termed the "Conseil Supérieur de l'Université," and the minister of public instruction is the president. An educational system from elementary schools up to the university with half-a-dozen exceptions under the direction of this body. Under the law there are no universities general of the University, whose office is to examine the schools and colleges once a year. The educational functions discharged by the

in other nations of Europe are in twenty-six academies, each of has a territory of two or more departments allotted to it. The twenty-six academies comprise forty-one royal colleges and above six hundred professors each. At the head of each academy are a rector, two inspectors, and all they have the superintendence of all the schools in their districts. Academies include the faculties, but the faculties are not organized in academies, and some have more than six faculties of Roman Catholicism, at Aix, Bordeaux, Lyons, Paris, Toulouse, and two of Protestantism, one Lutheran, at Strasbourg, the Calvinistic, at Montauban, under academy of Toulouse. There are faculties of law, at Aix, Caen, Grenoble, Paris, Poitiers, Rennes, Angers, and Toulouse. There are faculties of medicine, at Grenoble, and Montpellier, with seventeen royal schools of medicine. And there are seven faculties of literature, Strasbourg, Bordeaux, Toulouse, Dijon, and Besançon. The faculties of a variable number of professors, whom is dean, and a committee of examine candidates for degrees. Students sufficiently advanced to the sciences taught by the faculties attended in royal colleges, and are not attending as they reside within about the walls.

Universities of Great Britain are Oxford, Cambridge, Durham, London, and a Glasgow, Aberdeen, Edinburgh. In Oxford and Cambridge colleges have obtained a corporate tenure over the university, so that university constitution is in change. So great has been the that many people, and even some judges have erroneously conceived the corporations as composed of a set of colleges something like a government, whereas the universities are chartered by corporations, which degrees and have various powers of legislation properly belonging to a university. Founded on the

The oldest charter of privileges of university of Oxford as a corpora-

tion is said to be the 28th of Henry III., and the first charter granted to the university of Cambridge as a corporation is said to be the 15th of Henry III. James I. in 1600, by diploma dated the 19th of March, granted to the universities of Oxford and Cambridge the power to send each two representatives to the House of Commons. The Dean and Chapter of Durham, by an act of chapter 24th of April, 1831, established an academic institution in Durham in connection with the cathedral church, which by an act of parliament 28 & 29 Wm. IV. entitled 'An Act to enable the Dean and Chapter of Durham to appropriate part of the property of their church to the establishment of a university in connection therewith for the advancement of learning,' was confirmed and endowed. In 1857 the university of Durham received a royal charter. The university of London received its first charter from William IV., which Queen Victoria revoked in the first year of her reign, and granted a new charter the 24th of December, 1827. The history of the establishment of this university is given at length in the 'Penny Cyclopædia,' UNIVERSITY COLLEGE, LONDON, and UNIVERSITY OF LONDON.

As in England and Scotland, the medical and legal professions are in the United States educated principally in distinct schools, and this is the case also in a great measure with the students of theology. Many of the colleges or universities contain only a faculty of arts.

According to the 'American Almanac' for 1846, there were 108 colleges in the United States, 20 medical schools, some of which are connected with colleges or universities, 24 theological schools, and 14 law schools. Most, if not all, of these are incorporated places, and all the colleges grant degrees. But none of these colleges are of very recent date, all organized, and all endowed. On the whole, however, the endowments and character of the colleges in the United States are such as show that the highest branches of learning and science are jealously pursued and honorably supported.

See also, Geschichte des Wissenschaftlichen Rechts im Mittelalter. Aehrenhain, 18

stitutiones Historiæ Medicinæ; Bulsius, *Historia Universitatis Patinensis*, Pasquier, *Recherches de la France* *Edinburgh Review*, June, 1831, art. 'English Universities—Oxford,' Meiners, *Geschichte der Entstehung und Entwicklung der hohen Schulen unsers Erdtheiles*, *Quarterly Journal of Education*; Balbi, *Abrégé de Géographie*; *American Almanac* for 1846.)

UNIVERSITY. This word is the English form of the Latin *universitas*, which is often used by the best Latin writers. The adjective 'universus' signifies the whole of anything, as contrasted with its parts; the plural 'universi' also is often used to express an entire number of persons or things, as opposed to individual persons or things. The uses of the word *universitas* may be derived from the meaning of *universus*. *Universitas* is used by the Latin writers to express the whole of anything, as contrasted with its parts: thus Cicero speaks of all mankind as '*universitas generis humani*;' and he proceeds to instance individuals (*singuli*), as the ultimate elements of this *universitas*. It is not necessary to the notion of a *universitas* that all the elements should be alike; '*universitas rerum*' is Cicero's expression for the whole of things—for all things viewed as making one whole. The word *universitas* applies either to a number of things, or of persons, or of rights, viewed as a whole. The Roman jurists expressed by the term '*universitas bonorum*' the whole of a property as contrasted with the parts (*singulæ res*) which composed it. Such a *universitas* might be the object of a universal succession. [SUCCESSION.]

Rights and duties are properly attached to individuals as their subjects: but a number of individuals may be viewed for certain legal purposes as one person or as a unity. Thus the notion of a number of persons forming a juristical person, or a *universitas*, obtained among the Romans, and *universitas* was a general name for various associations of individuals, who were also indicated by the names of *collegia* and *corpora*. The essential character of these *universitates* of persons, viewed as juristical persons, was the capacity of having and acquiring pro-

perty. The property, when acquired, might be applied to which the nature of the required: but it was the association to have and acquire individual, that was the characteristic of the body as a unity for the purposes for which the property had or acquired were not of the notion of a *universitas*, purposes for which an individual acquires property are part of to have or to acquire.

The universities or corporations at Rome were very numerous. There were corporations of bakers, *pauperes* farmers of the revenue, of others. The name was also applied to the sense above explained to *municipia*, and *respublicæ*; and to the component parts of them, as *vici*, *fora*, *conciliabula*, and *castella*.

From the Roman words *universitas*, *collegium*, *corpus*, are derived the modern university, college, and corporation in modern languages, and though the words have obtained modified significations in modern times, so as not to be differently applicable to the same thing, they all agree in retaining the fundamental signification of the terms, which ever may have been superadded to them. There is now no university, college, or corporation which is not a juristical person in the sense above explained. When ever these words are applied to an association of persons not stamped with this mark, it is an abuse of terms.

The word university, in its modern acceptation, has often been misunderstood. Its proper meaning is explained in the article; and the application of the word to associations of teachers or pupils is planned in the article *UNIVERSITY* (Savigny, *Geschichte des Heutigen Rechts*, ii. 261, &c.; and i. 378, &c.).

UNLAWFUL ASSEMBLY [SEDITION.]

USAGES. [CUSTOMS; PRESCRIPTIVE.]
USANCE. [EXCHANGE, BILL OF.]
USE. A use, at common law, is a beneficial interest in land, distinct from the legal property therein. The word of uses is derived by Gilbert (Laws, 3) from a title under the civil

two savings 1st, To all persons (other than persons who were seised or thereafter should be seised of any lands, tenements, or hereditaments, to any use, confidence or trust, all such right, title, entry, interest, possession, writs, and action as they had or might have had before the making of the Act, and 2nd, To all persons seised to any use, all such former rights as they had to their own proper use in, or to any manners or hereditaments whereof they should be seised to any other use.

Probably the legislature intended by this act to put an end to the system of uses, nevertheless, it was soon settled by the courts that it had not that effect, but that uses might still as formerly be raised, upon which the statute would instantly operate. However, some modifications of the system were introduced. Before the statute, a mere agreement for sale, without words of inheritance, was sufficient to pass the equitable fee to the vendee, but, by the 27 Hen. VIII. c. 16, it was enacted that no contract should transfer the legal estate in the fee, unless it were made by deed enrolled. And it was resolved by the judges that words of inheritance were necessary to pass the fee at law. Indeed, no contract importing a future conveyance, even though made by deed enrolled, and containing words of inheritance, would now be held to transfer the legal estate under the Statute of Uses, though it would entitle the vendee in equity to call for a regular conveyance. A further modification of the system of uses was introduced by the seventh section of the Statute of Frauds (29 Car. II. c. 3), which required that all declarations of trusts or confidences of lands, tenements, or hereditaments (which might formerly have been created by parol), should be manifested and proved by writing, signed by the party by whom it is declared. [STATUTE OF FRAUDS.]

In order to raise a use which the statute will turn into a possession, it is necessary that there should be, 1st, one person seised to the use of another, *in esse*, 2nd, a use *in esse* limited in possession, reversion, or remainder. The use may be either express, as where lands are conveyed to A and his heirs in trust for B and

his heirs, or in confidence that he and they shall take the profits, or where the vendee, for a valuable consideration, receives by bargain and sale, or deed, a land which cases the legal estate vests in the grantee or bargainee by the statute, or may be implied, as where a feoffment made without consideration or reservation of the use, in which case the results, and the estate returns to the grantor. It was settled by the courts of law that the statute could not operate except upon an estate of freehold, and that therefore copyhold, and leasehold estates are not affected by it. A term of years may of course be created out of a freehold estate by way of use, but once subsisting cannot be converted into a use. If, therefore, a term were made to A to the use of B, the legal estate would remain in A, who however could be considered in equity as a trustee for B.

By the operation of the Statute of Uses, a man may, through the medium of a feoffee or releasee, make a conveyance to his wife, which he could not do at common law (Litt. s. 178, Co. Litt. 22 a). In like manner a married woman having a power to limit a use, may appoint her husband.

At common law a man could not limit a remainder to himself, nor could he limit it to his heirs so as to sink them into purchasers, without departing with the whole fee simple out of his person (Litt. s. 168 n, fol. 24, Co. Litt. 22 b). But he may do so by means of a conveyance operating under the Statute of Uses.

On the system of uses and the Statute of Uses has been founded the modern mode of conveying property in land, and the settlements of landed property, in which is now in use a legal system composed of numerous artifices and deductions, but, on the whole, adapted to secure the conveyance of property which the owner of land in fee simple wishes to accomplish in disposing of his property.

It is a rule of the common law that joint tenants cannot take at different periods. (1 Co. 100, b. 2.) And by rules a fee could not be made up of a freehold could not be made to commence in futuro, and an estate could

schools or for promoting the Roman Catholic religion, it is not lawful to give money for prayers and masses for the soul of a testator.

The Court of Chancery has a general jurisdiction over property given for charitable purposes, and the regular mode in which matters relating to charities are brought before it, is by information by the attorney-general on behalf of the crown.

The Court of Chancery adopts a very liberal construction of gifts for charitable purposes, and there are numerous cases of gifts for objects not within the letter of the statute of Elizabeth which have been considered to be within the equitable meaning of the word charity as understood in that court, and have been administered accordingly. And when a gift is made for charity generally, without any purpose specified, if the gift be to trustees, the court will order a scheme to be prepared for the direction of the trustees in the administration of the trust, and where the declared object is charity, but no trust has been created the crown by sign manual dispenses of the property and declares the particular charitable purposes to which it is to be applied. Where the particular objects which the donor had in view fail, either wholly or in part the court adopts what is called the principle of *cy pres*, that is, it directs the property to be applied to worthy objects in its judgment most nearly resembling those which have failed or when more than one charity has been named by the donor, to each of the others as are still subsisting. When the revenue of the property increases from any cause, the increase goes to the charity, if it appear to have been the intention of the donor that the whole should be disposed of for the benefit of the charity. Several difficult questions have arisen as to the disposition of increased funds.

When property is given to a superstitious use, or for a charitable purpose which cannot legally be executed, the court of chancery will apply it to some other charity. "Whenever a testator is disposed to be charitable in his own way and upon his own principles, we are not content with disappointing his intention,

if disappointed by us: but we make charitable in our way and on our principles. If once we discover a charitable intention that is disposed to be as liberal as to take in more only not within his intention, but adverse to it." (See *Williamson v. Yeat*, 494.) If the supposition be one which the court considers that the fund goes to the king to be disposed of to such charitable uses as it may see fit by sign manual, if the gift be to a charitable, the gift is merely void, the property will go to the devisee or next of kin. (2 M. and K. 141.)

The regular mode of proceeding in cases of abuse of charitable funds is by way of information in the name of the attorney-general on behalf of the crown. In informations with respect to charities the Court of Chancery always requires a person to be joined with the attorney-general, who is styled the next of kin answerable for the conduct of the suit. The crown never pays the costs, and therefore, in order to prevent frauds, there must be a mortgage or have to pay the costs, if the suit appear to have been improperly instituted.

The above mentioned Act of the 13th of Elizabeth empowered the Court of Chancery to issue commissions to inquire into the abuse or misapplication of property given for charitable purposes, and to make orders in relation thereto. It was found unsatisfactory that they could not do this, and therefore an Act was passed in the original method of procuring information.

By the 2d Geo. III. c. 111. an Act called the *Charitable Uses Act*, the legislature provided a summary method of cases of abuse of charities, and where the aid of the Court of Chancery was required for the administration of them. The act empowered the attorney-general to present a petition to the court of equity praying for redress of the abuses which the court might grant in a summary manner.

By the 3d Geo. III. c. 111. an Act called the *Charitable Uses Act*, the legislature was empowered to make orders by which the court might grant in a summary manner.

tion was called *usurpatio*. If the person commenced bona fide, it was attempted in the person of the person's successor, but it was continued. Roman law did not use the term *fructus* to express the title by which one obtained under the legislation in question, but the expression was *temporis prescriptio*. There was an extraordinary prescription, or possession, of thirty or forty years, was allowed in certain cases in the general conditions of prescription, but which other reasons were excluded the shorter prescription. There was the prescription of time in the

Prescription of the English law, namely the Prescription of the law. The Statutes of Limitation never resemble to the Prescription of the compilation of Justinian, but there are differences here. Roman Prescription gave a title in things, the Statutes of Limitation the claim of persons who have lost of possession for certain periods. The Scotch Prescription never resembles to the Prescription of the compilation of Justinian. Prescription, Prescription of

subject of Law, admits and is a much more complete system. The reader may refer to the following: *Engelmann, Lehr des Landrecht des nord. Rechts, Marburg, 1828*. *Altenmeyer, Pandectarum, Muckel's Lehrbuch des Pandecten Rechts, welche numerus* there are referred to.

§ 11. § 12. § 13. § 14. § 15. § 16. § 17. § 18. § 19. § 20. § 21. § 22. § 23. § 24. § 25. § 26. § 27. § 28. § 29. § 30. § 31. § 32. § 33. § 34. § 35. § 36. § 37. § 38. § 39. § 40. § 41. § 42. § 43. § 44. § 45. § 46. § 47. § 48. § 49. § 50. § 51. § 52. § 53. § 54. § 55. § 56. § 57. § 58. § 59. § 60. § 61. § 62. § 63. § 64. § 65. § 66. § 67. § 68. § 69. § 70. § 71. § 72. § 73. § 74. § 75. § 76. § 77. § 78. § 79. § 80. § 81. § 82. § 83. § 84. § 85. § 86. § 87. § 88. § 89. § 90. § 91. § 92. § 93. § 94. § 95. § 96. § 97. § 98. § 99. § 100. § 101. § 102. § 103. § 104. § 105. § 106. § 107. § 108. § 109. § 110. § 111. § 112. § 113. § 114. § 115. § 116. § 117. § 118. § 119. § 120. § 121. § 122. § 123. § 124. § 125. § 126. § 127. § 128. § 129. § 130. § 131. § 132. § 133. § 134. § 135. § 136. § 137. § 138. § 139. § 140. § 141. § 142. § 143. § 144. § 145. § 146. § 147. § 148. § 149. § 150. § 151. § 152. § 153. § 154. § 155. § 156. § 157. § 158. § 159. § 160. § 161. § 162. § 163. § 164. § 165. § 166. § 167. § 168. § 169. § 170. § 171. § 172. § 173. § 174. § 175. § 176. § 177. § 178. § 179. § 180. § 181. § 182. § 183. § 184. § 185. § 186. § 187. § 188. § 189. § 190. § 191. § 192. § 193. § 194. § 195. § 196. § 197. § 198. § 199. § 200.

§ 1. § 2. § 3. § 4. § 5. § 6. § 7. § 8. § 9. § 10. § 11. § 12. § 13. § 14. § 15. § 16. § 17. § 18. § 19. § 20. § 21. § 22. § 23. § 24. § 25. § 26. § 27. § 28. § 29. § 30. § 31. § 32. § 33. § 34. § 35. § 36. § 37. § 38. § 39. § 40. § 41. § 42. § 43. § 44. § 45. § 46. § 47. § 48. § 49. § 50. § 51. § 52. § 53. § 54. § 55. § 56. § 57. § 58. § 59. § 60. § 61. § 62. § 63. § 64. § 65. § 66. § 67. § 68. § 69. § 70. § 71. § 72. § 73. § 74. § 75. § 76. § 77. § 78. § 79. § 80. § 81. § 82. § 83. § 84. § 85. § 86. § 87. § 88. § 89. § 90. § 91. § 92. § 93. § 94. § 95. § 96. § 97. § 98. § 99. § 100.

entitled to *fructus* was called *fructuarium*, or *fructuarius*. A right to a *fructus* might be given to a person by testament, or it might be established by contract.

Generally it may be stated that all the *fructus*, or produce of a thing that accrued during the time of enjoyment, belonged to the *fructuarium*. But a title to *fructus* was not complete till he had taken them, and it was a general rule that any *fructus* which had not been got in or taken at the time when the *fructuarium* ceased, did not belong to him. The law as to things that yielded an increase, such as fruit trees and animals, did not present many difficult questions. As to houses and lands the questions were sometimes more difficult. The *fructuarium* was entitled to the rents and profits of houses during his time of enjoyment, and he was bound at least to keep them in sufficient repair, but probably not to rebuild them if they were in a ruinous condition. He was bound to cultivate land as a proper husbandman. He could work estates and quarries for his benefit, and he could allow other men to work them. Generally his right of enjoyment consisted in using the thing as he saw fit to change it or substitute it, under certain subjects. *§ 1. § 2. § 3. § 4. § 5. § 6. § 7. § 8. § 9. § 10. § 11. § 12. § 13. § 14. § 15. § 16. § 17. § 18. § 19. § 20. § 21. § 22. § 23. § 24. § 25. § 26. § 27. § 28. § 29. § 30. § 31. § 32. § 33. § 34. § 35. § 36. § 37. § 38. § 39. § 40. § 41. § 42. § 43. § 44. § 45. § 46. § 47. § 48. § 49. § 50. § 51. § 52. § 53. § 54. § 55. § 56. § 57. § 58. § 59. § 60. § 61. § 62. § 63. § 64. § 65. § 66. § 67. § 68. § 69. § 70. § 71. § 72. § 73. § 74. § 75. § 76. § 77. § 78. § 79. § 80. § 81. § 82. § 83. § 84. § 85. § 86. § 87. § 88. § 89. § 90. § 91. § 92. § 93. § 94. § 95. § 96. § 97. § 98. § 99. § 100.*

The *fructuarium* was entitled to rights in the *fructuarium* by actions and interdicts. The period of *fructuarium* might either be for a fixed time or for the life of the *fructuarium*. At the termination of the period of enjoyment, the thing was to be given up to the owner, who could generally require security for its being properly used and given up in proper condition. The *fructuarium* was a thing, as already explained, was a right to the enjoyment of a thing, but not to the produce or profits of it. Yet in some cases the use of a thing implied a right to a certain amount of produce. Thus the use of cattle implied that the owner was entitled to a certain amount of milk, and a man who had the use of an estate could take wood for the daily use, and could enjoy the fruits of the orchard and other things in moderation. If a man had the use of a man, he could employ them for all

the case of an hereditas. Originally such servitudes as followed the rule of law as to Res Mancipi could only be transferred like Res Mancipi; and therefore Usucapio could only apply to such servitudes. But by analogy to Res Mancipi, they could be acquired by bare contract, to which Usucapio was superadded; and when Mancipatio at a later period was replaced by bare tradition, they could be acquired by contract simply. In the case of marriage, when there was no co-emptio, the woman might come into the power of her husband by virtue of uninterrupted cohabitation of one year; and she was then said to become a part of his Familia by Usucapio founded on a year's possession. (Gaius, i. 111.) In the case of the Hereditas, when the testator had not disposed of his property by the necessary forms of the Mancipatio and Nuncupatio, the person who was named heres in the will could only acquire his legal title as such by Usucapio.

These various instances will show the original notion of Usucapio. It was a legal effect given to bonâ fide possession and uninterrupted enjoyment for a fixed time, by which defects in the transfer of a thing were made good: it was not originally a mode of acquisition. It was

In the Roman law, as in the Digest, Usucapio appears as a mode of acquisition which must follow the circumstance of going out of use, for bare possession in all cases, followed by the lapse of time, gave complete ownership. By the difference between Res Mancipi and Res Nec Mancipi was abolished, its original sense ceased. By the time of Gaius we find Usucapio applicable to the case of things Mancipi, which a person had possessed for a year; this rule of law still continuing, various limitations were in course of being established as to the mode of the ownership of a thing by the lapse of time. Thus Justinian, in the Institutes (ii. tit. 6), after reciting the old law, refers to one of his Constitutions (Cod. 7, tit. 31), by which the acquisition of moveables might be acquired (usucapiantur), provided it was based on bonâ fide possession (justa et legitima præcedente) for three years in the case of things that of immovable things by the lapse of ten years "inter præsentium," which was reduced to twenty years "inter absentium." A Constitution applied to the acquisition of things by Usucapio in the case of things

session was called *Usurpatio*. If the session commenced bona fide, it was interrupted in the person of the possessor, but it was continued if he did not use the term *Præscriptio* simply to express the title by which he obtained under the legislation in question, but the expression was a temporary prescription. There was an extraordinary prescription, or by possession, of thirty or forty years, which was allowed in certain cases in the general conditions of prescription had been complied with, but which for other reasons were excluded the shorter prescription. There was also the prescription of time immemorial.

Prescription of the English law was exactly the Prescription of the Roman law. The Statutes of Limitation bear a nearer resemblance to the Prescription of the compositions of Justinian, but there are differences here. Roman Prescription gave a title to things, the Statutes of Limitation the claims of persons who have been out of possession for certain periods. The Scotch Prescription bears a nearer resemblance to the *Præscriptio longi temporis* of the Roman law. [PRESCRIPTION, STATUTES OF LIMITATION.]

The subject of *Usufructus* admits and deserves a much more complete exposition. The reader may refer to the following works—Engelbach, *Lehrbuch des römischen Rechts des römischen Rechts*, Marburg, 1828. Mehlhorn, *Doctrina Juris Romani*. Mackeldey, *Lehrbuch des römischen Rechts* where numerous references are referred to.

USUFRUCTUS, or USUFRUCTUS. This is, belonged to the class of *Res Personarum* or *Personales* among the Romans. *Usufructus* is defined (Dig. 7, tit. 1, § 1) to be "the right to use and take the fruits (fructus) of what belongs to another without impairing its substance." *Usus* is defined (Dig. 7, tit. 1, § 2) to be the right "to use, but not to take the fruits (fructus)." The objects of *usufructus* might be land, houses (villæ), slaves, beasts of burden, and other things. He who was

entitled to *Usufructus* was called *Usufructuarius*, or *Fructuarius*. A right to a *Usufructus* might be given to a person by testament, or it might be established by contract.

Generally it may be stated that all the "fructus," or produce of a thing that accrued during the time of enjoyment, belonged to the *Fructuarius*, but his title to fructus was not complete till he had taken them, and it was a general rule that any "fructus" which had not been got in or taken at the time when the *Usufructus* ceased, did not belong to him. The law as to things that yielded an increase, such as fruit-trees and animals, did not present many difficult questions. As to houses and lands, the questions were sometimes more difficult. The *Fructuarius* was entitled to the rents and profits of houses during his time of enjoyment, and he was bound at least to keep them in sufficient repair, but probably not to rebuild them, if they were in a ruinous condition. He was bound to cultivate land in a proper husbandlike manner. He could work existing mines and quarries for his benefit, and he could also open new mines and work them. Generally his right of enjoyment consisted in using the thing so as not to damage the substance, *solum rerum substantia* (Liquor, Dig. 7, tit. 1, § 1). The *fructuarius* could maintain his rights to the *usufructus* by actions and interdicts. The period of *usufructus* might either be for a fixed time or for the life of the *fructuarius*. At the termination of the period of enjoyment, the thing was to be given up to the owner, who could generally require security for its being properly used and given up in proper condition.

The *usus* of a thing, as already explained, was a right to the enjoyment of a thing, but not to the produce or profits of it. Yet in some cases the *usus* of a thing implied a right to a certain amount of produce. Thus the *usus* of cattle implied that the *usuarius* was entitled to a moderate allowance of milk, and a man who had the *usus* of an estate could take wood for his daily use, and could enjoy the fruits of the orchard and other things in moderation. If a man had the *usus* of a garden, he could employ them for all purposes.

uses for which cases are properly used. The duties of the usufructus resembled those of the fructuarium.

The rules of law which related to the Usufructus and Usus were numerous. Many of them are collected in the *Digest* lib. 7 : see also '*Fragmenta Vaticana*,' *De Fragmentis* and Mühlensbruch, *Disserina Pandectarum*.

The Roman Servitutes Praediorum were mere personal rights, which a man had as being a particular person. The rights which a man might have upon the land of another in respect of land of his own, were the Servitutes Praediorum or realia: the land itself may here be viewed as the subject to which the rights were attached, and the person who possessed the land had with it the rights which were attached to the land. The Casemiers of the English law comprehend rights of way, and the like, which a man has in or over the property of another in respect of being the owner or occupier of land to which such rights are attached, or by virtue of a grant.

USURPATION [USURPATIO]

USURY. This word comes from the Latin *usura*, or as it is more frequently used, *Usurie* in the plural number. The Latin word signifies money paid for the use of money lent. The old word in use in England to signify what we now call interest, seems to have been *Usury*. But usury now means taking more interest for the loan of money than the law allows. A good deal on the subject of usury is contained in the arguments and judgments in the case of the Earl of Chesterfield and others v. Sir Abraham Jansson (2 Vez. 125).

Interest is money which is paid for the use of other money, called principal. The general practice is that the borrower agrees to pay a fixed sum yearly, half yearly or quarterly, for each unit lent, until the money lent is returned. When this is not the case, and when the money paid for the loan depends upon the success of an undertaking, or any casualty not connected with the duration of life it is called a *dividend* when the money and its interest are to be returned by yearly instalments, and paid off in a certain fixed number of years, it is called an

annuity certain, but when the payment is to depend upon the life of any person or persons, it is called a *life annuity*. [ANNUITY.] But by whatever name proceeds of money may be called, the rules of calculation are the same in every case except that of a life annuity.

The amount of money which persons are willing to pay for the temporary use of money depends upon a variety of circumstances. When profits are high, the rate of interest will also be high. When the contrary, money capital is abundant in proportion to the calls for it, the competition of those persons who possess money, and who derive an income from it, will lower the rate of interest in the money market. They will lend money at a low rate of interest to traders who again will meet each other in competition in their various occupations, and not content with such a rate of profit, will repay the low rate of interest for what they have bargained, together with a compensation for their risk, and trouble in its management in the degree of competition at the time when the money should be repaid. When, however, some new channel for the employment of money should be opened which leads to the promise of higher profits, competition among borrowers will cease, the effect of which will be to raise the rate of interest until it assumes its due proportion to the rate of profits. And as the borrower can, generally speaking, estimate the rates of profits at the same time as the lender for any long period, in the same manner the effect of the additional money lent to supply the partial demand that is supposed, will be to raise profits and interest generally. An increased number of persons, either absolutely or relatively, for the means for its employment will not only have the contrary effect of lowering its value in use, that is, reducing the rate of interest and profits.

It would be difficult to lay down any circumstances relating to the loan of money which must not be taken into account in the conditions of a loan. It is therefore difficult to see where the limits of the wisdom of government in regulating the rate of interest may be found. Of such limitation has usually been the rule, and the character of transactions at

the nature of interest, in respect of the detention or appropriation of goods. By 1 & 2 Vict. c. 110, all judgment debts are to carry interest at the rate of 4 per cent per ann. from the time of entering up the judgment. As to interest of money lent on ships or their cargo, see *BOTTOMRY*, and on legacies, see *LEGACY*.

The relaxation above mentioned as having been made as to the rate of interest formed part of the arrangement made in 1833, at the renewal of the charter of the Bank of England (1 & 4 Wm. IV. c. 98.) It consisted in exempting from the operation of the statute all bills of exchange and promissory notes not having more than three months to run previous to their maturity, these might be discounted at any rate of interest agreed upon with the holder. More recently, by the act 1 Victoria, c. 80 July, 1817, this relaxation was extended to all such mercantile instruments which have not twelve months to run before they are due.

USUS. [Usury etc.]

V.

VAGRANT This term, which simply denotes "a wandering person," is derived from the Latin *vagus*. It was probably introduced into our law language from the Norman French; for the phrase "*in gerant de lieu en lieu errant per parts*," occurs in our early statutes in the sense in which the word "vagrant" is used in common language at the present day (Stat. Rich. II. c. 5.) The persons to whom it is applied in ancient documents are usually classed with "lascars" (a word of doubtful origin, but meaning an idle liver or slothful person. Cowell's *Interpreter*, Keble's *Dictionary*), "travelyng-men," and "vagabonds." The latter expression, "*vagabundus*," was known throughout Europe in connection with feudal law, and is interpreted to mean "*ere no vagans, cui nec certum domicilium, nec constant habitatio est*." (Calvus *Lexic Jurid*.) It was used in this sense in English law as early as the reign of Henry II. Cowell's *Interpreter*. Modern laws have however given to the word "vagrant" a much more extended

meaning, in the application of which the notion of wandering is entirely lost.

In the course of the twelfth century the lower classes of society from the condition of feudal vassals to that of the labourers, vagrancy and mendicancy, from the unsettled state of the poor and in most countries where funds had prevailed, severe laws were made to repress the evils which sprung from beggary. In England various statutes and ordinances were passed to abridge the mischiefs arising from wandering mendicancy. These statutes were very numerous from the 23 Edward III. to the end of the reign of Henry VI. Notwithstanding these laws vagrancy seems to have greatly increased at the beginning of the reign of Edward VI. and a severe enactment, 1 and 2 Edward VI. c. 3, against vagrancy was made that reign, but it was repealed by 1 Edward VI. c. 16.

About the beginning of the reign of Elizabeth, a description of persons called *rogues* first appear in the general laws against vagrants. The derivation of the word is variously given, Hornet takes it from a Saxon word signifying cap or hood, or covered. *Dictionary of Pictorial* &c. p. 227, Webster takes it from another Saxon word, and Dr. Johnson admits its derivation to be uncertain. Landard says, "The word is the most frequent in our law, for the ancient statutes call such a one a *vagrant*, *strong* or *rogue*, *hoggar* or *vagabond*, and it is now usually fetched from the Latin *vagus* or *asker* or *beggar*." (*Etymology* &c. chap. 4.) Dalton also says, "The word may be so called quia vagantur per Country Justice, chap. 8. It is believed that the word did not enter the English language before the middle of the sixteenth century, and it is probably one of those terms introduced by which, at that period, the counterfeiting Egyptians or Persians to designate different classes of their 'ungracious tribes,' and of which Harrison's *Description of England*, fixed to Hollinshed's *Chronicle*.

In the course of the reign of Elizabeth the evils of vagrancy increased in

the extent, and although the accounts given by historians of the multitudes of vagabonds in England are founded on rude estimates, and are probably not exaggerated there is undoubtedly no doubt that the numbers and attitude of persons of that period constituted a dangerous impetuosity.

1597, after experience had shown that temporary expedients and ill-directed only increased the number of vagabonds and that severe punishments and were wholly ineffectual in preventing them, the House of Commons appointed a committee to whom most of the laws relating to the condition of the poor as well as certain bills for amendment, were referred (see *Journals*, p. 561). This committee of which Sir Francis Bacon was a member and which was composed of all the great men of the House, seems to have arrived at a certain extent on the principle that, in order to be severe against vagrancy and idleness, it was necessary to provide means of relieving that destitution which was the ready and plausible excuse for it. They therefore prepared the 30 Eliz. c. 1, which for the first time organized that machinery for the relief of the poor which was a few years afterwards completed and made permanent by the stat. 43 Eliz. c. 2. The committee also recommended measures for encouraging the building of almshouses, or alms-houses and working for the poor, and for improving agriculture which was already in progress, but had been interrupted or neglected.

And at the same time they introduced a more rational enactment for the better regulation of the poor and suppression of frauds and vagrancy (stat. 43 Eliz. c. 4). "The statutes," says Sir Edward Coke, "have been made for the better of rogues, vagabonds, and beggars, but very few to find them and to enforce them thereto." The 30 Eliz. c. 4, supplied this defect by providing houses of correction with stocks and materials for the punishment of the inmates, and by enabling the use of the means thus placed at the disposal of the poor by severe penal-

ties against the idle. The provisions of this statute, with some alterations made by the stat. 1 Jac. I. c. 25, continued in force during the 17th century, and, when repealed by the stat. 12 Anne, stat. 2, c. 24, still served as the model and foundation for future acts. It declared that a great variety of persons who are described in the act, should be deemed rogues, vagabonds, and sturdy beggars.

The continued misdeeds of magistrates to enforce the statutes of Elizabeth, notwithstanding a proclamation of James I., occasioned the passing of the stat. 7 Jac. I. c. 6, which compelled the justices of every county to set proper houses of correction for settling rogues, vagabonds, and other idle and wandering persons to work, and also required them to meet twice a year or oftener, if occasion required, for the better execution of the law.

The laws relating to vagrants continued substantially upon the footing of the statutes of 30 Eliz. and 7 Jac. I. for more than a century, until, in 1744, they were reexamined and remodelled by the stat. 17 Geo. II. c. 5. This was the first legislative measure which distinguished vagrants into the three classes of idle and disorderly persons, rogues and vagabonds, and incorrigible rogues. Although this statute is now wholly repealed, it continued in force nearly a century, until 1824, when a temporary act, stat. 1 Geo. IV. c. 48, passed, repealing all former laws and re-enacting most of the provisions of the stat. 17 Geo. II. c. 5, with many additions and modifications. The provisions of the stat. 17 Geo. IV. c. 48, were however entirely superseded by the 5 Geo. IV. c. 83, which now (1846) constitutes the law respecting vagrants. This act was amended by the 1 Vict. c. 30 (1847). The third section of the statute 5 Geo. IV. declares what persons are idle and disorderly persons, and may be committed by a single magistrate to hard labour in the house of correction for any time not exceeding one month.

The 4th section of this act declares what persons are rogues and vagabonds, which are there described, to be rogues and vagabonds, and empowers a single magistrate to commit them to hard labour in the house

are defined by the statute.

The statute, besides the definition of the facts and circumstances which are to constitute offences in the several classes above enumerated, contains various provisions for the prosecution of vagrants and the regulation and disposal of them. Thus it is enacted that any person may apprehend a vagrant and bring him before a magistrate. The persons as well as the carriages or luggage of the several descriptions of vagrants may be searched, and money or goods found upon them may on their conviction be applied towards the costs of apprehending them and maintaining them in prison. If proceedings at the sessions are contemplated, either by reason of an appeal against a summary conviction or the commitment of an incorrigible rogue, the committing magistrate may bind over witnesses to prosecute, and the justices at sessions may order the payment of costs to persons so bound. And an appeal is given to the next sessions to any person aggrieved by an act or determination of any magistrate out of sessions concerning the execution of the act.

Although the modern statute is in many respects an improvement of the law, it is still subject to some of the objections which

considered "suspected" or "puted thieves," or what is to be an "unlawful purpose, or a street," in the true legal of this statute, so as to render to whose acts these phrases rogues and vagabonds? actions of doubt and difficulty lawyers, and may require hesitation and difference of among those to whom the titution of penal laws belongs. The trade and vagueness of especially dangerous in a gives large judicial power to moral persons, who are for withdrawn from the contemplation in the exercise of the subjects and objects of the law connected with local and prepossessions, and where the suffer from indecision of the poor and helpless, to who is wholly inaccessible.

VALUE. [POLITICAL PRICE.]

VASSAL. [FEUDAL AND VENDOR AND PURCHASER.]

The law of Vendors and Purchasers of Real Estate in England is a great subject.

DE "When a widow is suspected to feign herself with child in order to produce a supposititious heir to the estate, the heir presumptive may have a writ de ventre inspiciendo, to examine whether she be with child or not, and, if she be, to keep her under proper restraint till delivered—which is entirely conformable to the practice of the civil law—but if the widow be, upon due examination, found not to be pregnant, the presumptive heir shall be admitted to the inheritance, though he hath to lose it again, on the birth of a child within forty weeks from the death of a husband." (Blackstone, *Comm.* 1. 456. The Roman practice is explained in the Title of the Digest 25 tit. 4. De inspiciendo ventre custodiendoque partu. The practice originated in the joint reigns of Aurbus and Verus, in a case in which a wife denied her pregnancy and the husband maintained it. The wife had separated from the husband, and probably wished to keep the child that might be born, though by law it would belong to the husband. If a woman alleged that she was left pregnant by her deceased husband, it was her duty to convince the fact to those whom it concerned, and to inform them that they might, if they pleased, send women to inspect her (ipse ventrem inspiciant). All the proceedings of inspection and of watching the woman, if she should be reported to be with child, are minutely prescribed in the Praetor's Edict. The penalty in case of the woman not complying with the Edict was, that the Praetor would refuse to the child the *Donorum Possessio*.

The form of the English writ De Ventre Inspiciendo is given Co. Litt. 8 b. It is directed to the sheriff, and commands him to empanel a jury of twelve women to search whether she be enswent. If they find that she is with child, another writ issues which commands that she shall be safely kept and duly suspected by the women, who must be present at the delivery.

The use of this writ is an instance in which what is called a proceeding at common law is taken from the Roman system. The writ is not obsolete, as some people suppose, it has issued within the last fifteen years. (Co. Litt. 8 b., and

N. 44 in Butler's edition, *Comyns Digest*, Hasted, C.)

VENUE (*locus actus*), i. e. "neighbourhood". The county in which a trial of a particular cause takes place is called the Venue of that cause. The practice in this matter is contrary to the original functions of the jury, persons who were acquainted with the law issue. [Jury.] In order then that a proper Venue might issue to the sheriff, the place in which the action was brought was stated in the margin of the declaration, and on the statement the pleadings of any issuable fact—assent was also made of the place, viz. such fact was alleged to have occurred. As to all such facts upon which assent was taken, a venue was sued out appointing each different place. The sheriff summoned jurors from that place, and by the jurors the facts were decided. In several distinct Venues and trials it might be necessary to dispose of the issues in an action.

When juries ceased to act on their own knowledge, and began to determine on the evidence of witnesses, necessity ceased for summoning jurors from the particular part of the county, and the practice gradually declined. At last, the form of the Venue continuing the same, two juries from the same hundred only were required for the trial of a personal action. By the Statute 16 & 17 Car. II. c. 8 it was enacted that no error should be brought, because there was no right Venue, provided the cause was tried by a jury of the proper county or place where the action was brought. After this statute the practice was abolished of trying all the issues in the trial of the general Venue in the action. By Statute 4 Ann. c. 16, it was further enacted that "every Venue Facias for the trial of any cause shall be awarded of the body of the proper county where such cause is issuable" that is, from the county at large without reference to the particular hundred containing the place in which the action was brought, and such is still the practice. By the general rule of all the courts, of Hilary Term, 4 Wm. IV., it is ordered that in future the name of a county shall be stated in the margin of a declaration.

and shall be taken to be the intended by the plaintiff, and no shall be stated in the body of the plea, or in any subsequent plead-

tion was long since established between local (that is, actions real estate and transitory that of debt, contract, for personal &c. In regard to the former, it is that the actual place in which the subject-matter was situated must be the venue in the action, and that is previous. The reason is said to be from the circumstance that, unless an action were brought in the actual place, the sheriff of the county would be to give effect to the judgment. In transitory actions, on the other hand, the subject-matter of them need not have any fixed place, the plaintiff is to bring his action in any county in which he pleases. As a consequence of which it follows, that the cause of action has occurred in the county in which it is still open for the plaintiff to bring his action in the county in which he pleases. The plaintiff has liberty in a transitory action to assert an authority upon the court made to them of changing the venue.

This is done upon its being made out that great inconvenience would be caused by trying in the original county, or because from local prejudices a verdict would be had, &c. And the same is extended even to local actions in spite of the technical difficulty that has been before referred to. See *1 Com. 224, 225*; *Stephen's Digest, 2d ed. 431*.

In all trials the Venue is the place in which the offence charged was committed, before a grand jury the venue the indictment must be laid, and before a petty jury the venue. The courts however have the discretion as to the power of changing the venue in civil cases, and as to criminal cases many exceptions have been introduced by various statutes.

VERDICT. (FOREST LAWS, and FORESTS.)
VERDICT (JURY.)

VESTRY is the name of that part of a parish church where the ecclesiastical vestments are kept, and in which such meetings of parishioners have been usually held in this part of the church for parochial purposes, such meetings, duly convened, have acquired the name of vestries, so that even where a building remote from the church has been erected for parochial meetings, it is usually called the vestry room. When the meeting is held in the church, or even in a building within the precincts of the churchyard, the ecclesiastical courts claim jurisdiction over the conduct of the parishioners.

By the common law all rated inhabitants of a parish have a right, either periodically or when specially convened, to meet in vestry for the affairs of the parish, and to vote the necessary pecuniary rates. But this common law right has been modified in many ways.

1. By custom, which has vested the government of some parishes in a select and usually a self-elected body of persons, probably the successors of individuals to whom the parishioners at some previous time delegated the management of their parish for a stated period but who, by the indifference and neglect of their constituents, came to hold permanently the powers entrusted to them. The principal act for the regulation of these vestries is the 24 Geo. III. c. 69. It requires that three days notice shall be given of the holding a vestry, that if the incumbent of the parish is not present, a chairman shall be elected by the meeting, and that minutes of its proceedings shall be kept and signed by the chairman and each of the parishioners present as think fit, and it gives to each inhabitant, provided he has paid his rates, one vote if he is rated on a rental under 50*l.* and, if on a higher rental, one vote for every 20*l.* for which he is rated, so that no one however shall have more than six votes. This act does not extend to parishes within the City of London or borough of Southwark.

2. Section 20 of the act 10 Anne, c. 11, gives to the commissioners appointed by that act for the purpose of erecting fifty new churches in London and boroughs, power to appoint, under their seals, with the consent of the ordinary, a

convenient number of sufficient inhabitants, in each parish created under the act, to form a select vestry of such parish." It vests in the majority of such select vestry the power to supply vacancies, and gives them all the powers of other vestries. The 59 Geo. III. c. 134, another church-building act passed to explain and amend the act of the previous session, gives a similar power (§ 30) to the commissioners under those two acts to appoint, with the like consent, a select vestry out of the "substantial inhabitants of the district," parish, or chapelry, for the management of the affairs of the church, and the election of church or chapel wardens, vacancies being supplied by the select vestry itself; and the 10th section of the act 3 Geo. IV. c. 72, confines the powers of the vestryman to his own district with respect to ecclesiastical matters, and provides that any deficiency (a somewhat vague expression for an Act of Parliament in the select vestry shall be supplied as vacancies have heretofore been filled up in the vestries of the particular parish. Local acts have also created vestries.

3. The 59 Geo. III. c. 12 (Sturges Bourne's Act), enables general vestries to appoint special vestries, consisting of not more than twenty, or fewer than five, parishioners to superintend the relief of the poor, the overseers of the poor being placed under their authority. These special vestries are little more than committees of the general vestries, to which they are responsible.

4. A fourth kind of vestry is created by 1 and 2 Wm. IV. c. 60 (Sir John Hobhouse's Act). The adoption of this act is left to the discretion of each particular parish. But rural parishes of less than 800 rated householders are excluded from its operation. In order to apply the act to any parish either one-fifth, or else fifty, of the rated parishioners must sign a requisition to the churchwardens to take the votes of the parishioners for or against its adoption. When the act has been adopted in the manner provided by the act, the parishioners who have been rated one year to the relief of the poor meet on some day in May (21 days' notice having been previously given on the church-

doors), and elect out of the resident householders assembled upon an annual rate of not less than ten pounds a vestry if the parish is in the City of London, or more than 3000 resident householders upon an annual rental of 400 pounds vestrymen, in the proportion of one for every thousand rated householders, but the number of vestrymen is not to exceed 120. One-third of the vestry is to be out of office in rotation annually; their places are supplied by the persons already described. The incumbent of the parish is entitled *ex-officio* a member of the vestry; indeed the incumbent of the parish is supposed to be called to preside at vestries, but by what authority, other than an implication of the ecclesiastical courts, and the provision already cited from the 59 Geo. III. c. 62, is not clear. This act prescribes that the parish accounts be open to the inspection of all parishioners; and that on the day of electing vestrymen the rate-payers elect, out of persons with the care to elect, in as is necessary for vestrymen, auditors of the accounts, who shall be members of the vestry, or approved by any contract with the parish. They are to audit the accounts every half year, and to deliver an abstract of the accounts, signed and sealed by the vestry clerk, within a week after the audit, and distribute a copy to the rate-payers at the price of one shilling a copy. A statement is also to be made annually, for the inspection of the parishioners, of all the estates and charitable foundations of the parish, their income, and application.

It is the duty of vestries to provide funds for the maintenance of the fabric of the church and the due execution of public worship to elect churchwardens, to present for appointment to the king as overseers of the poor persons who possess such estates and other property belonging to the parish, and in some cases, under local acts, to superintend the cleaning and lighting of the parish and to collect rates for those purposes.

The remedy for neglect of duty of a vestry is a mandamus from the Court of Queen's Bench, directed to the incumbent, whose duty it would be to perform

and in a small room by the
side of the main hall, a small
room of 1000 sq. ft. was
also reserved for the same
purpose.

On 21st April 1871, the
first of the 1000 sq. ft. rooms
was opened.

On 22nd April 1871, the
second of the 1000 sq. ft. rooms
was opened.

On 23rd April 1871, the
third of the 1000 sq. ft. rooms
was opened.

On 24th April 1871, the
fourth of the 1000 sq. ft. rooms
was opened.

On 25th April 1871, the
fifth of the 1000 sq. ft. rooms
was opened.

On 26th April 1871, the
sixth of the 1000 sq. ft. rooms
was opened.

On 27th April 1871, the
seventh of the 1000 sq. ft. rooms
was opened.

On 28th April 1871, the
eighth of the 1000 sq. ft. rooms
was opened.

On 29th April 1871, the
ninth of the 1000 sq. ft. rooms
was opened.

On 30th April 1871, the
tenth of the 1000 sq. ft. rooms
was opened.

On 1st May 1871, the
eleventh of the 1000 sq. ft. rooms
was opened.

On 2nd May 1871, the
twelfth of the 1000 sq. ft. rooms
was opened.

On 3rd May 1871, the
thirteenth of the 1000 sq. ft. rooms
was opened.

On 4th May 1871, the
fourteenth of the 1000 sq. ft. rooms
was opened.

On 5th May 1871, the
fifteenth of the 1000 sq. ft. rooms
was opened.

On 6th May 1871, the
sixteenth of the 1000 sq. ft. rooms
was opened.

On 7th May 1871, the
seventeenth of the 1000 sq. ft. rooms
was opened.

On 8th May 1871, the
eighteenth of the 1000 sq. ft. rooms
was opened.

On 9th May 1871, the
nineteenth of the 1000 sq. ft. rooms
was opened.

On 10th May 1871, the
twentieth of the 1000 sq. ft. rooms
was opened.

On 11th May 1871, the
twenty-first of the 1000 sq. ft. rooms
was opened.

On 12th May 1871, the
twenty-second of the 1000 sq. ft. rooms
was opened.

On 13th May 1871, the
twenty-third of the 1000 sq. ft. rooms
was opened.

On 14th May 1871, the
twenty-fourth of the 1000 sq. ft. rooms
was opened.

On 15th May 1871, the
twenty-fifth of the 1000 sq. ft. rooms
was opened.

On 16th May 1871, the
twenty-sixth of the 1000 sq. ft. rooms
was opened.

On 17th May 1871, the
twenty-seventh of the 1000 sq. ft. rooms
was opened.

matter which is to be determined by a majority of voices or opinions of persons who are empowered to give them. The commonest case of voting in countries where there is an elective branch of the supreme power is that of voting for members of a legislature, as in Great Britain and Ireland.

The vote may be given either orally, in which case it is notorious for what person or persons a man gives his vote; or it may be by ballot, that is, by the voter writing on a tablet or paper the name or names of the person or persons for whom he votes, and putting the tablet or paper into a closed box. When the voting is oral, it is open voting; when it is by ballot, it is secret voting, or at least secret so far as the voter chooses to keep it secret, if the business is properly managed; for secrecy is the object of the voting by ballot.

There has been much discussion on the vote by ballot. The question is resolvable into various parts: first, is it a matter of public utility that a man's vote for a member of the House of Commons (to take this as an instance, and the main instance here in Great Britain) should be open or secret? There is something to say on both sides, though those who have argued in favour of the one or the other of the two modes of voting have perhaps not discussed this part of the question fully. There is a short answer to those who say that the non-voters, or the whole body of voters, or that all people have a right to know how a man votes. The answer is, that they are abusing the term Right. The franchise is not given under any such conditions, and there is no Right of the kind, if we use the word Right in its strict and proper sense. What is meant is probably this, that it is for the general interest that a man's vote for a member of the Commons' House should be open, in order that opinion may operate upon him, for if this is not the reason, it is difficult to see that there is any other reason for open voting. But opinion may be wise or unwise, favourable to a good candidate or against him. Open voting, therefore, if it is to be affected by opinion, may have bad results as well as good

results. On the whole, however, it may be admitted in a country in which there is a representative system, that the opinion of the majority of the voters must be considered to be right, and we must consistently admit that under a system of open voting, the whole influence of opinion, if it has any influence, bears balance in favour of the majority; then there must be a majority in every given case of voting, and as that majority represents the right opinion, the opinion of the majority before the voting can operate, and it can only operate effectively when the voting is open.

On the other side, when a man gives his vote, it is implied that he has a voice of his own, and that it is his will that he shall exercise it. But he cannot exercise it freely when all restraints are removed. So far as public opinion has value, so far as arguments have weight, he may learn what opinion is, and he may listen to the arguments, and he may vote as he thinks best. If his vote is to be more the expression of his own opinion than of the opinion of other people, it seems to be implied in the phrase "giving a vote," he ought to be allowed to give his vote in that way which gives him most freedom to do as he wishes, whichever of the two ways that may be. If opinion and power and influence and threats may and do operate largely upon many persons who have votes, and accordingly they vote in a different way from what they would vote if they were free from all influence. We have no fact is not denied by those who are in favour of the ballot or those who are against it. But then it may be said that if voting were secret, the influence of working on the voter would be less resorted to. It must be so, but the question is, would they be so efficient if the voter could vote contrary to his wish as when the voting is open?

A great many people have no opinion of their own—they follow the opinion of others. If the voting is secret, they follow that opinion which they are inclined to follow, at least if the secret of their vote is effectually guarded. If the voting is open, they are exposed to

but for some other reasons
 can choose to vote not as they
 think, and it does not follow that
 voting is open, they will be
 the opinion of the majority,
 are assumed to be the right
 the opinion of the minority
 secured as efficiently on any
 as that of the majority. In
 the kind or how individuals
 vote on voters either by them-
 selves, or by their agents and the opera-
 tive individuals who belong to the
 will be as efficient as the opera-
 tive individuals who belong to the
 in proportion to their numbers,
 being equal.

It is to be determined, though it
 is stated here, that secret voting
 is more consistent with the
 a man "having a vote" and
 vote" and that it is at least as
 in the community as open
 remains the objection that
 is contrived by which the
 a man's vote can be secured
 self-chosen than to vote by
 that it is not for the general
 that secrecy out of the way
 which may be added a third
 out from the attempt to secure
 or mischief will ensue than
 open voting.

It is possible to derive means by
 the giving of the vote may be
 voted can hardly be denied
 of the vote does not keep his
 which sometimes he would not
 his own affairs. If secrecy was
 the against everybody except
 it is all that can be attempted
 feel that there would be many
 many reasons and to various
 the part of persons who were
 in election to ascertain a
 and that these attempts would
 many evils and irregularities
 himself, and subject him to
 by force. Granted that this
 or will be so, it does not fol-
 greater amount of true ex-
 position, which is the thing
 be aimed at in taking men's
 not be gained by secret than
 by.

Bribery is one means by which voters
 are induced to give their votes, and the
 enactment of laws against bribery is
 founded on the assumption that bribery
 should be prevented, that voters should
 give their votes without pay or reward.
 Under the system of open voting there
 is much bribery in the election of mem-
 bers for the Commons House. It cannot
 be asserted that secret voting would de-
 stroy bribery, but perhaps it would render
 it more difficult. This subject is consid-
 ered under the article BURNING.

The condition of the Roman voters
 was very peculiar. They were very
 numerous, and many of them very poor.
 Bribery existed to a great extent when
 the voting was secret, and there were
 severe penalties against the candidate
 who bribed, and possibly against his
 agents also. The Roman voters did not
 understand the subject, it was a mystery
 called *clerical*, he says, was a favourite
 with the people for it appeared a man's
 face, but could say his mind so that he
 can do what he chooses, and promise
 what he is asked. If this representation
 is true, a Roman might promise his vote
 to one man and vote for another, and he
 well possessed that he had the power of
 the people.

The kind of dishonesty here suggested
 is not a matter for severe censure. He
 who is permitted by the form of the con-
 stitution and by law to ask for a vote and
 get a promise, may not get the vote which
 he promises. The honesty of a man
 who buys a vote is tried, not by threats,
 or in fair terms, is the same whether
 the voter keeps his promise or not. The
 immorality of the voter who promises
 his vote to one man which his judgment
 gives to another, and keeps his pro-
 mise, appears to be at least as great as
 that of the man who promises to vote to
 the man whom he does not like, and gives
 it to the man to whom he would give it.

Secret voting is much used in England,
 in clubs, in elections, and on many oc-
 casions. Its use is recommended by its
 convenience. It enables a man to vote as
 he pleases without giving off his name,
 without getting into personal quarrels.
 The practice is maintained to be good on

the whole, though occasionally there is evil in it. A spiteful, ill-tempered fellow may, by a secret vote, sometimes inflict injury or at least great pain on an honest and respectable man. Yet the advantages of the secret voting in all cases where it is used are supposed to be greater than the disadvantages.

If secret voting is in any case good, or if in many cases it is good, as we believe it is admitted to be by all persons, those who object to its being extended to other modes of voting than those in which it is at present practised are loaded with the burden of showing in each case to which it is proposed to extend it, that there are good reasons against such extension. Those who are in favour of the ballot must reply to such reasons. It is sufficient for them to open the case of any particular extension of the ballot, by declaring that in such case the introduction of the ballot would be beneficial.

This matter sleeps at present, but when more urgent reforms are accomplished, it is probable that the discussion of it may be revived.

VOYAGE. [BOTTOMRY; SHIPS.]

W.

WAGER. [GAMING.]

WAGER-POLICY is a name given to a policy of insurance made by persons having no interest in the event about which they insure. [GAMING, p. 59.]

WAGER OF BATTLE. [APPEAL.]

WAGES are the price paid for labour. The labour of man, being an object of purchase and sale, has, like other commodities, a natural or cost price, and a market price. Its natural price is that which suffices to maintain the labourer and his family, and to perpetuate the race of labourers. The rate of wages cannot be permanently below this natural price, for if in any country labourers could not be thus maintained, they must cease to exist, they must be exterminated by famine, or be removed to some other country. If the price paid were only sufficient to maintain the labourer himself, without any family, he would be unable to marry, or his children would die of want. By these distressing causes the supply of la-

bour would be reduced until the action of employers had raised the labour to its natural level. But the natural price would thus be that which only wards off what there is, Lappin's for mankind, which tends to raise it to a new standard. Every man desires his condition, to enjoy more comforts and luxuries of life than to his lot, and to raise himself in estimation of others. If he has acquired this, he acquires habits of living which is painful for him to forego. He vows to bring up his children the same views and habits as his father, he feels it a degradation if they fall below the standard which he has himself set. The necessary consequence is a tendency to social improvement, prudence and forethought in and undertaking the support of a family. If a man has been accustomed to abundant and rich food, to decent clothing, to a comfortable home, he would be deterred from marriage by a fear of being unable to comfort himself, and of being unable to bring up his wife and family. He would be induced to defer the responsibility of marriage until he should be able to bear them. This is a sound principle as regards an individual, and is conducive to the welfare of himself and his family. It is not less so to society at large, in the class of labourers in particular. Their sufferings and demoralization are avoided, and the population is restrained within reasonable bounds. A labourer cannot have more than a limited supply of labour does not exceed demand. A labourer cannot have more than a limited supply of wants. He should desire good food, good clothing, a cleanly and comfortable home, and education for his children. If this standard of wants could be raised, the natural price of labour would rise in proportion, for if labourers were determined not to render themselves unable to gratify these wants, they would command the wages that would satisfy them. The degree in which the law operates determines the rate of wages and the condition of the labouring classes. Where it has no

words, induces them to regard as necessities a variety of comforts which are beyond the reach of common workmen.

Wages are usually calculated in money, and are called high or low according to the money price actually paid, but the condition of the labourer is obviously affected by the price of commodities as well as by the amount of his wages. If the necessities of life be cheap, low money wages will maintain him in comfort; if they become dearer, higher wages will not improve his condition but will leave him as he was. Hence it becomes an interesting point to inquire whether the price of provisions affects the rate of wages. The disputes which have arisen upon this question would seem to be chiefly caused by attempts to apply a universal law to countries and employments under totally different circumstances. Some contend that as wages are regulated by supply and demand, the price of provisions cannot affect them; while others maintain that the average prices of labour and of food must always, for long periods of years, conform one with the other. It is evident, at the outset, that the former are speaking of the market rate of wages, and the latter of

the natural rate of wages, and the varying ratio of the two. In some countries the market rate may be very much above the natural rate, in others nearly the same. In the former, capital may be increased more rapidly than population, and so fast. It is clear that if the price of food cannot be raised, the rate of wages will not rise. Where the wages are high, and capital is rapidly accumulated, as the price of food and other necessities is a clear gain to the labourer, he will have only a very remote chance of lowering wages, but when wages are already reduced to the natural rate, capital is not increasing so fast, and wages will not fall with any permanent inclination in the cost of subsistence.

The question is further complicated by differences which exist in the rate of wages in various countries. Where the natural rate is high, it is to afford the bare means of subsistence, and at least rise in the price of

...and a remedy for those evils was Sir Robert Walpole, in his celebrated *Letter* volume, in 1733. His object was to unite the *Lancaster* laws with those of the *customs* as regulated *with* *and* *without*, and to charge a small duty immediately on importation, and the *remainder* on being removed from the *Lancaster* warehouse for home consumption. Speaking of *imports*, he thus explained his proposal: "If the *merchandise* is to be imported, he may apply to his warehouse-keeper, and take an account for that purpose as he has occasion for, which, when weighed at the custom-house, shall be discharged of the three *hundred* per cent with which it was charged upon importation: so that the merchant may then export it without any further trouble. But if he wishes to be home consumption, that he shall then pay the three *hundred* per cent upon it at the custom-house upon importation: and that then, upon making his warehouse-keeper, he may deliver it to the buyer, on paying an inland duty of six per cent to the proper officer appointed to receive the same." Walpole clearly knew the advantage of his scheme in the *exporting* trade. "I am certain," he said, "that it will be of great benefit to the *country*."

Early Legislation on Customs Laws, and Regulations, vol. 177, edition 1811 and '21 of *Tracts*, for 1841 by Clerk. The main objection to the policy scheme was that the *warehouse* was not a *warehouse*, but, under law, it is at the disposal of the *merchant*, he may remove it from one port to another or to inland carriage, to be again. The revenue, it said, would be *increased* or *decreased* and it naturally increases or decreases *warehouse* in *quantity*? It is intended that *warehousing* in the *export* and *importation* to the *merchants* of inland towns, and be assigned for *not* *exporting* it, *entry* to the *revenue*. But he removed with safety from *land*, they would be removed *safety* from *land* *export* to *land* from *Hull* to *York*. *Consequence* in *exporting* in *exporting* as they would be prevented *capitalists*, in the *case* in *docks* and *warehouses* in *land* and *warehouses*.

in 1663, M. Turgot established it in France, but it was discontinued in 1791, except for merchandise imported in the East and West Indies and for the exportation of wheat. In 1805 the law was re-established in a more extensive manner, but was confined to certain ports until 1812 when it was extended to several of the principal cities of the interior. Warehousing, both at sea and at certain inland towns is practised in Holland, in Belgium, Denmark, and other commercial countries, and has also been adopted. In the United States of America, warehousing was introduced not only on account of its utility to trade, but for a novel reason, to export to the treasury. The present of a law, passed in December, 1842, that, without such a system of paying duties, the rich capitalist, instead of it as at home, would persecute after a manner, an almost exclusive monopoly the import trade, and have designed the benefit of all would thus operate to the benefit of the few—a result wholly inconsistent with the spirit of our institutions and anti-republicanism in all the senses.

WARRANT. A warrant is a delegation of power to do some act, that power to do. A man has power to do his own business, he may give a warrant of attorney to another to act on his behalf. A sheriff who has power to arrest, &c., may give a warrant to his bailiff to act for him. A justice who has power to make a distress upon a tenant may give a warrant to another for that purpose. A magistrate who has authority to bring before him persons who are within his jurisdiction, and reasonably suspected of being committed criminal offenders, may give a warrant to others to do that act. A warrant should be in writing, and ought to show the authority of the person who makes it, the act which is required to be done, the name or description of the party who is apprehended to execute it, and of the party against whom it is made, and in criminal cases, the grounds upon which it is made. The use in which the word warrant is more

generally known relates to criminal matters. A justice of the peace has power within his own jurisdiction to apprehend a person whom he has reasonable and probable cause to believe to be an offender in which he has jurisdiction. He may also verbally direct, that is, give a verbal warrant to others to arrest such person in his own presence. He may also give a warrant in writing to apprehend in his absence such person, or any person against whom he has reasonable cause of suspicion from the information of others. The warrant should always be under the hand and seal of the justice. It should be addressed to the constable or constables, or to some private person by name, and the constable or the private person acting within the justice's jurisdiction will not be liable for any of the consequences of obeying a proper warrant. The warrant should name the person against whom it is directed. A warrant to apprehend all persons suspected, or all persons guilty, &c., is illegal; for the purpose of the individual person to be apprehended is the function of the justice, not of the officer. The law as to this was laid down by Lord Mansfield in the case of *Murray v. Leach*, 1 Burr 1112, where the warrant, being of the form called a general warrant, and which had been in use since the Revolution down to that time, of directing the officers to apprehend the authors, printers, and publishers of the famous No. 45 of the *North Briton*, was held to be illegal and void. The warrant should also set forth the time and place of making it, and the cause for which it is made. A warrant may be returnable to the party before the justice who gives it, or before any justice of the same county. A warrant of a justice of one county cannot be executed in another which has been backed, that is, signed by some justice in that other county, and the same system has been also created with respect to warrants granted in any one of the three kingdoms and returning to the several in any other. But a warrant granted by one of the justices of the Court of Queen's Bench in Great Britain, may be executed in any part of the kingdom. A warrant is in force until it has been re-

was derived to it from the sale of trees cut down, an action for the value of the property might have been sustained against the executor. (Cowp. 376.) Now however, by the 3 and 4 Wm IV. c. 52, s. 2, remedies by action of trespass or trespass on the case are given against the executors of any deceased person for any wrong committed by him in his lifetime against the real or personal property of another within six months of his death, provided the action be brought within six months after the personal representatives have taken upon themselves the administration of the estate.

But the most complete remedy in cases of waste is that in the Court of Chancery, which, upon application to it by bill, will not only direct an account to be taken and satisfaction to be made for the damage done, but will interpose by way of injunction to restrain the commission of future waste. A Court of Equity will grant its assistance against the commission of waste wherever the case appears to require it, even though the plaintiff is not in a condition to maintain an action at law. (3 Atk. 91, 211, 723.) The court will also grant an injunction against waste *pendente lite*; and in such cases it is not necessary that the plaintiff should wait till waste is actually committed; it is sufficient if an intention to commit waste appears, or if the defendant insists upon his right to do so. (2 Atk. 182.)

It has long been usual when estates for life are expressly limited, to insert a clause declaring that the tenant shall hold the lands "without impeachment of waste." These words were originally intended merely to exempt the tenant from the penalties of the statute of Marlbridge, though it has long been settled that they enable him to cut down timber and to convert it to his own use, but he may be restrained in equity from committing malicious waste so as to destroy the estate, or cutting down timber, which serves for shelter or ornament to a mansion-house, or timber unfit to be felled. (2 Vern. 718; 3 Atk. 215.) This is what is called the doctrine of Equitable Waste. The privileges of the tenant for life under the words "without impeach-

ment of waste" are annexed in privilege to his estate, and determine with it. Thus it seems that if a lease were made to one for the life of another without impeachment of waste, with remainder to him for his own life, he would become punishable for waste, the first estate being merged in the second. (11 Rep. 87, b.)

Ecclesiastical persons, who hold land in right of a church, are disarmed from committing waste, though, like other tenants for life, they have the right to take from the land materials for necessary repairs. They may not only sell timber and dig stones for that purpose, but have even been allowed to sell timber or stone, when the money was to be applied in repairs also, though they cannot open mines they may work those already open (Amb. 176.) Ecclesiastical persons may be proceeded against for waste in the civil as well as the ecclesiastical courts. It has been held that an action on the case will lie against them for dilapidations, and may be brought by the successor to a benefice either against his predecessor or his personal representatives. (3 Lev. 268, 1 T. R. 630.) It seems doubtful whether the courts of common law have any power to issue a prohibition against the commission of waste by ecclesiastical persons. (1 Bos. and Pull. 105.) But there is no doubt as to the jurisdiction of the Court of Chancery to grant an injunction against any ecclesiastical person whatsoever to stay waste in cutting down timber, pulling down houses, or opening quarries or mines on the glebe. The proper person to make the application is the patron of the living, or, when the living is in the crown, or the application is made against a bishop or a dean and chapter, the attorney-general on behalf of the crown. (8 Mer. 421.) But the patron of the living in such cases has no right to an account, for he cannot have any profit by the living. (Amb. 176.) An injunction has been granted against waste by the widow of a rector during the vacancy of the living. (2 Bro. cc. 5, 42.) By the 36 Geo. III. c. 52, the incumbents of benefices are enabled to cut down timber on the glebe-lands for the purposes of the statute (35 Geo. III.) enabling them to

exchange their personage-houses or glebe-lands.

Tenants in tail and tenants in fee have an inheritance in the land, and they are real owners. Those who have less interest are in the situation of the Roman usufructuarius. [Prescription.]

See also 'Abridgment' art. Water.
WATER AND WATERCOURSE RIGHTS are rights of conducting water through a piece of land for the use of another, an incorporeal hereditament of the class of easements, and was known in Roman law by the name of this *actio aquæ ductus*. The right of taking water out of the well or pond belonging to another person is an incorporeal hereditament of the class of profits called in Roman law the *servitus aquæ hædus*. These rights, in our law, must be either proved to be a grant or established by prescription. [Prescription.]

It is the law of England that water flowing in a stream is originally public, that is to say it is the property of which belongs to no individual, but to all to use. The legal presumption is that the proprietor of each bank of a stream is the proprietor of one half of the land covered by the stream, but there is no property in the water. Every proprietor has an equal right to use the water which flows in the stream, and consequently no one can have the right to use the water to the prejudice of any other without his consent. No proprietor can either diminish the quantity of water which would otherwise descend upon the proprietors below, nor throw back the water upon the proprietors above, so as to overflow or injure their lands. For the same reason, no proprietor has a right to use the water of a stream so as to increase its quantity to the detriment of other proprietors.

The only modes in which a right to the use of running water, in a manner inconsistent with the common law rights of others, can be established are either proof of a grant or proof of a prescription. The persons whose rights are affected or injured by an interrupted enjoyment of such a privilege for such a period as the law considers sufficient to constitute a

right by prescription. The period of twenty years had been generally fixed upon by the courts of law and equity for this purpose, and the same period has been adopted in the Prescription Act (2 & 3 Will. IV. c. 71, s. 2). Prescription. But if water has not been appropriated, it seems that the person who first appropriates and renders it useful acquires a right, and for a violation of such right an action may be maintained on an enjoyment of less than twenty years. It has been decided that after the erection of works and the appropriation by the owner of the land of a certain quantity of the water flowing over it, if a proprietor of other land afterwards takes what remains of the water before it is appropriated, the first mentioned owner, however he might before such second appropriation have taken to himself so much more, cannot do so afterwards. (6 East, 210.) The privilege of a watercourse is not confined to private individuals. It may be vested in a corporation or may be claimed by the inhabitants of a township or parish. If tied with a stream of water upon it be sold, the water *permeat* passes with the land, but it is laid down by Coke that if a person *privatizes* a stream, the soil will not pass, but only a right of fishing in that water; for the proper words in that case to pass the soil would be, so many acres of land *and* *with* the stream, whereas the word *stream*, or pond, will pass both water and land. (1 Inst. 1, 16.) The exclusive right to a flow of water once acquired can only pass by grant as an incorporeal hereditament, and a license, by deed or otherwise, to use or take the water at any place, may be revoked even without an express power of revocation being reserved, unless works have been constructed and expenses incurred upon the faith of it. (5 H. & Ad. 1.)

When the owners of property have, by long enjoyment, acquired special rights to the use of water in its natural state, as it was accustomed to flow, and not a ready right, which is common to all the king's subjects, an action may be maintained for a disturbance of the enjoyment, but where the injury, if any, is to all

qualities of both, but differ in some respects from each. By some writers these are classed among private, by others, among public ways: they seem more properly to constitute a distinct intermediate class. Such are ways which the inhabitants of a town, &c., have immemorially used from their town, &c., to a church or market. A right of this description cannot, in modern times, be created. It cannot be the subject of a grant, inasmuch as inhabitants, as such, are not at this day capable of taking any interest by grant, nor can it, like a public way, be created by dedication, as the dedication of a way can only be to the public at large. Such a right therefore can exist only as the consequence of an ancient custom.

III. A highway is created where the owner of the soil has, by express words or by some act done or forborne, declared his intention that the public shall have the use of a way over such soil. The dedication of a way to the public may be by writing or by words, so that it may be inferred from the acts of the party, as the throwing down of fences, or from mere tacit acquiescence where the acquiescing party is in possession of the land, and therefore has the means, if disposed so to do, of preventing the use of the way. In all cases, however, it is necessary that the party dedicating should have a sufficient interest in the land to warrant such dedication. If he has a less estate than a fee-simple, his dedication will not bind the reversioner. But it would also appear that the owner of such a limited estate could not even dedicate a highway to the public for the limited period of his interest in the soil, and that his attempted dedication, however distinctly and formally made, would amount to nothing more than a licence revocable at pleasure.

When there is no express dedication, the presumption of an intention to dedicate, arising out of the conduct of the party, may be rebutted; as by showing that when the public were first admitted a bar or a chain was occasionally placed across the road, whereby passengers might, at times, be excluded, although

it should also appear that the bar had long been omitted to be used, &c. It had been suffered to fall, &c. or, had been actually broken down, and no attempt had afterwards been made to restore it.

A highway is frequently created by statute, principally under enclosure acts.

Whatever may have been the origin of a highway, it cannot, at common law, be destroyed or altered, except after an inquisition taken upon a writ of *ad damnum*.

By the common law the duty of maintaining highways is thrown upon the occupiers of lands and tenements within the parish, or rather within the township in which the way is situated. But particular persons may be appointed to repair a highway. This special duty may exist by reason of enclosure and encroachments, against parties who have enclosed the sides, or one side of a road, and have thereby lessened the facilities for breaking out into the lands where necessary, &c. It may also exist by reason of the possession of lands (not enclosed) which have by some act become chargeable with the repair of the highway. In the case of a corporation, a special liability to repair may also be created by prescription only, or at common law without enclosure or tenure.

Any obstruction or other injury to a highway may be abated or repaired by any person who chooses to undertake the task. The wrong-doer may also be proceeded against by indictment as a misdemeanor, but he is not liable to an action, as he is in the case of a nuisance to a private or to a quasi-public use, except in respect of special damage.

The regulation of highways has frequently been made the subject of legislative interference. The statute in force is the 5th and 6th Wm. IV. c. 50.

In the case of a way over water, whether private, quasi public, or public, the course of the water after its natural gradual change, the way is not altered over the new course. It is only a way over the river, arm of the sea, or creek, &c. a way for ships and boats. [River.]

UNIT [POLITICAL ECONOMY]
UNIT OF NATIONS [POLI-
ECONOMY]

UNITS AND MEASURES. We describe the English weights and measures as they stood on the last year 1825, immediately before the reduction by law of the Imperial with some remarks on their different tines.

Weight.—The pound is 12 the ounce is 20 pennyweights, weight is 24 grains. The pound grain. There is but one grain whether dry or avoirdupois, and each of pure water is 252 grains.

Measure.—The cubic foot of water is pounds Troy. Only gold and measured by this weight. It is by Troy weight, but, as may be the measure of these is the Troy. The diamond is measured by 154 to the carat Troy, so that is a pretty very exactly. In the old foot measure still exists, pearl grain is one-fifth less than grain.

Weights.—In dispensing the pound Troy is divided into 16 ounces, the ounce into 8 drams, into 4 scruples, consequently 160 grains. But a long time since the avoirdupois weight is not always has been used seems to be that on the last in the present time as a rule, which by Troy weight, in the water as the water present holds, the common mistakes were due by fractions of what was then the pound.

Fluid Measure. In the new edition of the 'Pharmacopoeia' the following measures are given: the following measures make a fluid dram, 8 drops a fluid ounce, 20 fluid ounces a fluid pint. The water thus is actual as well as measure, since the pint is 20 ounces avoirdupois of but for other liquids the fluid must merely be considered as a measure used in the 'Pharmacopoeia' that

same given to the 20th part of a pint. The measure of water is as nearly as possible the natural drop, but not of other substances, the drops of which vary with their several tensions.

According to Dr Young, who has reduced them from Vega, the apothecaries' prices used in different countries are as follows—1000 English grains make 1125 Austrian, 960 German, 960 French, 800 Genoese, 950 German, 978 Hanoverian, 982 Dutch, 850 Neapolitan, 824 Piedmontese, 824 Portuguese and Roman, 825 Spanish, 955 Swedish, 803 Venetian.

Avoirdupois Weight. The pound is 16 ounces, and the ounce 16 drams, the modern pound is 7000 grains (the same as the Troy grain), where the dram is 27 grains and 1/2 of a grain. The hundredweight is 112 pounds, and the ton 20 hundredweight. The cubic foot of water is 62 1/2 pounds avoirdupois. The stone is the 14th part of the hundredweight, or 14 pounds. The ton of shipping is not a weight but a measure, 42 cubic feet, holding 211 water to weight of seawater. Down to the streets of London, the avoirdupois pound varied a little, according to the nature of the water. Distillers made a gross grain, Dr. Keightley says, 7000 grains, 16 ounces, 1600 grains. That art declares that seven thousand such grains should be, and they are hereby declared to be a pound avoirdupois.

Long Measure. Three barleycorns make an inch, 12 inches a foot (but a yard, 3 1/2 yards a pole or perch, 4 poles a furlong, 8 furlongs (220 yards) a mile. Also 2 1/2 inches are a nail, 3 quarters of a yard a French ell, 5 quarters an English ell. 6 quarters a French ell. A pace is 2 steps, or 5 feet; a fathom is 6 feet. The chain is 22 yards, or 100 links, 10 chains make a furlong, and 80 chains a mile. The barleycorn is now banned and the inch is sometimes divided into 12 lines as in France, but often into 16 for the or eighth. The yard is frequently called an ell in old books, commonly Recorde says Meas. says

the first author when it is an ounce is an ounce avoirdupois.

* In recent times the word perch has been almost confined to the square perch.

Four square pecks were formerly called a day's work. The word is the same word as rod. With four rods make an acre. The old terms which have come down from the 'Domesday Book' at latest the hals, plowland, carucate, and oxgang, are now settled as to what magnitudes they meant.

The cubic measure, or measures of capacity, is not immediately depend upon the size of foot except in the case of timber. Forty cubic feet of rough timber, or fifty feet ofewn timber, make a load.

The preceding measures have been untouched by the act which introduced the imperial measures. The old measures of capacity, the wine measure, ale and beer measure, and the dry measure, are now replaced by the imperial measure.

Old Dry or Corn Measure—The gallon is 230.4 cubic inches. Two pints make a quart, two quarts a pottle, two pottles a gallon, two gallons a peck, four pecks a bushel, two bushels a strike, two strikes a coomb, or coomb, two coombs a quarter, eight bushels, five quarters a way or load, and two ways a last. In measuring grain, the bushel is struck, that is, the part which more than fills the container is removed. Most other

measures were formerly five pecks to a bushel 11 lb 4 and always in even measure. It means a dry measure, as the wine ale, and beer were measured by a dry bushel was called a bushel. This name is a law of King Edgar, who specified it in Winchester local standard.

Old Wine Measure—The pint is 34.7 cubic inches. Two pints, 2 pints a quart, 4 quarts a gallon, 12 gallons a muid, 7 1/2 muids a tun, 42 gallons a barrel, 2 barrels a butt, 2 pipes a butt, 2 pipes a pipe, 1 pipe of foreign wine is 120 gallons of their culler on the above. The tun are generally counted, and found in writers of the sixteenth century. Menus gives 18 1/2 gallons, a way is 18 gallons, to the tun means the third part, and the pancheton was the term of a tun. Two quarts formerly existed of brandy, a foreign measure.

public nuisance. *Magna Charta* c. 23 directs that all weirs for the taking of fish should be put down except on the sea-coast. By the 12 Edw. IV. c. 7, and other subsequent acts, weirs were treated as public nuisances, and it was forbidden to erect new weirs, or to enhance, straighten, or enlarge those which had aforetime existed. Hence in a case where a brushwood weir across a river had been converted into a stone one whereby the fish were prevented from passing except in flood-time, and the plaintiff's fishery was injured, this was considered to be a public nuisance, although two-thirds of the weir had been so converted without interruption for upwards of forty years. And it was laid down in that and other cases, that though a twenty years' acquiescence might bind parties whose private rights only were affected, yet that no length of time can legitimate a public nuisance. (7 East, 198, 2 B. & Ald. 662.) On the same grounds it will probably be held that the Prescription Act (2 and 3 Wm. IV. c. 71) does not apply to weirs. It appears therefore that no weirs can be maintained on any rivers to the prejudice of the public, or even, as it seems, of individuals, except such as have existed time out of mind, or such as have been erected under local acts of parliament for the navigation of particular rivers.

The provision of the Roman law as to the maintenance of public rivers (*flumina publica*) against any impediment to navigation, or against any act by which the course of the water is changed, are contained in the Digest (43. tit. 12, 13).

WESTMINSTER ASSEMBLY OF DIVINES. One of five bills to which it was proposed by the parliamentary commissioners that King Charles I. should give his consent in the negotiations at Oxford (from 30th January to 17th April, 1643), was entitled 'A Bill for calling an Assembly of learned and godly Divines and others to be consulted with by the Parliament for the settling of the government and liturgy of the Church of England, and for the vindication and clearing of the doctrine of the said church from false aspersions and interpretations.' This bill was afterwards converted into 'An Ordinance of the Lords and Com-

mons in Parliament,' and passed on June, 1643.

The persons nominated by the ordinance to constitute the assembly consisted of a hundred and twenty-one clergymen together with ten lords and twenty commoners as lay assessors. Several of the persons about twenty in all were appointed by the parliament from time to time to supply vacancies occasioned by death, accession, or otherwise, who were called superadded divines. Four lay assessors, John Lord Manners, Sir Archibald Johnson of Warriston, four ministers, Alexander Henderson of George Gillespie of Edinburgh, David Rutherford of St. Andrews, and John Baillie of Glasgow, were, on the 18th September, 1643, admitted to seats of voice in the assembly by a warrant from the parliament as commissioners of the Church of Scotland. They were deputed by the General Assembly, which body, and to the Synod of Cession of Estates, commissioners had been sent from the two houses of the English parliament, and also from the Assembly of Divines, soliciting a union in the circumstances in which they were placed. This negotiation between the civil, and ecclesiastical authorities of the two countries gave rise to the Sole League and Covenant, which was set up by Henderson, moderator (or president) of the General Assembly, having been adopted by a unanimous vote of that body on the 17th of August, and then forwarded to the English parliament and the Assembly of Divines at Westminster for their consideration.

The ordinance of the Lords and Commons by which the Assembly was constituted only authorized the members, and further order should be taken by the houses, "to confer and treat among themselves of such matters and things touching and concerning the liberty, discipline, and government of the Church of England, or the vindicating and clearing of the doctrine of the same, &c. should be "proposed to them by either of the said houses of parliament, and no other," and to deliver opinions and advices to the said houses from time to time in each matter

by the said houses should be so. They were not engaged to do or write anything. As the day proceeded, a discordance of opinion arose upon various points between the ruling Presbyterian party in the Assembly and the growing Independent or Presbyterian majority in the party. Various more evident signs of events also tended to separate the leaders more widely every day, and to put them almost in opposition and hostility to each other. The Assembly of 1643 continued to sit until the 22nd of February, 1643, having existed five years, one week, and twenty two days during which it had met 113 times. The members who had left above a half before. Those of the members who remained in town were engaged by an ordinance of the parliament, a committee for trying and judging ministers, and continued to meet for this purpose every day morning till Cromwell's dissolution of the Long Parliament, 25th of March, 1653, after which they never met.

The important work of the Assembly performed in the first three or four of its sessions. On the 12th of May, 1643, the parliament sent them an order directing that they should first consider and treat among themselves of such a discipline and government as may be most agreeable to God's word and most apt to preserve and settle the peace of the church at home, and then agree with the Church of Scotland and other Reformed churches to be settled in this church in that part of the present church government by archbishops, bishops, &c. to be resolved to be taken away, and to be replaced by the directory of 1643. This order produced the Assembly's Directory for Public Worship, which was submitted to parliament on the 10th of April 1644, and their Confession of Faith, the first part of which was presented to parliament in the beginning of October, 1644, and the remainder in the month of November in the same

year. Their Shorter Catechism was presented to the House of Commons on the 5th of November, 1643, their Larger Catechism on the 15th of November, 1643. The other petitions of the Assembly were only of temporary importance such as administrative addresses to the parliament and the crown, letters to foreign churches, and some local vestral trusts. What are called their Annularies on the Bible did not proceed from the Assembly but from several members of the Assembly and other clergymen constituted by a committee of parliament, to whom the business had been referred.

The Directory of Public Worship was approved of and ratified by the General Assembly of the Church of Scotland at Edinburgh in February 1644, the Confession of Faith by that body in August 1643, the Larger and Shorter Catechisms, by that body in July 1643, and these formulations all together to constitute the authorized standards of that establishment. The Directory of Public Worship was ratified by both houses of the English parliament on the 2nd of October, 1644, and also, the doctrinal part of the Confession of Faith, with some slight verbal alterations in March 1644. On the 15th of October, 1643, the House of Commons passed an order that the Presbyterian form of church government should be tried for a year, but it was never conclusively established and upheld by legislative authority, and even what was done by the parliament in partial confirmation of the proposals of the Westminster Assembly of 1643, having been done without the royal assent was all regarded as of no validity in the Restoration upon which every episcopary assumed its authority without any not being paid to that effect.

It is remarkable that there is not in existence as far as is known any complete account of the proceedings of the Westminster Assembly of 1643, or other printed or in manuscript. The official record is extremely supposed to have perished in the fire of London. Three volumes of entries by Sir Henry Lee, who were preserved in the Westminster Library, London, and two volumes by George Calverley in the Advocates Library, Edin-

burgh. But, as letters, however, contain very few details of what was done during the present Parliament, and a Journal, lately (1821-5) has been printed. More information is to be found scattered in various works, such as Lord's 'Memoirs of the Westminster Divines,' Ormsby's 'Life of Owen,' and especially Neal's 'History of the Puritans.' The only work that has appeared professing to be a 'History of the Westminster Assembly,' (Divines) is a 12mo volume, of 320 pages with 144 titles, by the Rev. W. M. Lockington, then minister of Topham, published at Edinburgh in the year 1843. The reader is referred for a further account of the sources of information on the subject to Mr. Lockington's Preface, and to a note on p. 521 of Aiton's 'Life and Times of Alexander Henderson,' 8vo, Edinburgh, 1837.

WHIG. Different accounts are given of the origin of this word. Barlet, in his 'History of his Own Time' 1743, under the year 1714, says, 'The south-west counties of Scotland have seldom corn enough to serve them round the year, and the northern parts producing more than they need, those in the west came in the summer to buy it both the stores that came from the north and from a word which was used in denoting their horses, and that have been called *whigs* ever since shorter the word *New*. In that year, after the news came down of Dr. Hamilton's defeat, the ministers animated their people to rise and march to Edinburgh, and they came off marching on the head of their parades, with an uproar of fairs, pipes, and preaching all the way as they came. The Marquis of Argyle and his party came and thwarted them, they being about 1000. This was called the *whig* tax march, and ever after that do the top, and the bottom came in contempt to be called *whigs* and from Scotland the word was brought into England where it is now one of our unhappy national distinctions.

Whig has ever been the name of the one of the two great political parties in the state, the other is Tory. The Whigs of the last century and a half are generally viewed as the representa-

tives of the friends of civil and religious liberty in the ancient constitution, of it ever since the popular element became active in the legislature. Whigs were called puritans, not only round-heads, covenanters, or some name. Down to the Revolution the chief of this reform party made such change, since that time, at least till recently it has persisted to maintain the charge that was, of course, however, this party, in part, has both shaken its old professions, principles, and action within certain limits of time, in conformity with the circumstances, and has adopted out several shades of opinion, persons belonging to it as to these. These differences have been sometimes more distinct, at other times, referring to matters of apparent party policy, as was the case when the Whigs, after the breaking out of the Revolution, split into two sections to be known as the Old and Whigs, at another, some of the views and objects, it is perhaps, as perhaps, it is, in an extreme of the party name. Whigs, at other times, self-proclaimed as such, as the radicals do, our own opinions and indeed are, have drawn off, indeed, to such a great time to take, even the general object is to reform, preserve what exists, and could a more determined policy than the opposition offer, as Burke expressed means to secure the rights of the sides, upon the principle of the same objects with the Tory or important at all times, but value, as the party of reform is more especially or especially of a more radical and extreme party, speaking of laws, as we are, and to possess such a more determined character, passes into its opposite, the place of fact, much of what is

[illegible]

It is not only to be reported by me
at present, as explained in A102-
and D102. A further...

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry must be supported by appropriate documentation, such as receipts or invoices, to ensure transparency and accountability. This section also outlines the procedures for reconciling accounts and resolving discrepancies.

2. The second part focuses on the role of internal controls in preventing fraud and errors. It describes various control measures, including segregation of duties, authorization requirements, and regular audits. These controls are designed to minimize risks and protect the organization's assets.

3. The third part addresses the need for ongoing training and education for staff members. It highlights that continuous learning is essential for staying up-to-date with industry standards and best practices. Training programs should cover both technical skills and ethical considerations.

4. Finally, the document concludes by stressing the importance of communication and collaboration among all stakeholders. Regular meetings and reports are recommended to keep everyone informed about financial performance and any emerging issues.

1. The first of these is the fact that the
 present law is not a complete one.
 It does not cover the case of a
 man who is married and has a
 child out of wedlock. This is a
 case which is not covered by the
 present law.

[illegible]

[illegible][illegible]

circumstances will permit, so distributed as it would have been had no marriage between them been solemnized. In the case of a permanent marriage, the moveable property is divided as above stated, the survivor getting a half, if there is no issue, and a third if there is issue. Of any real property in which a wife dies intestate, if there has been a living child born of the marriage, and if there is no surviving issue of the wife by a former marriage, the widower enjoys the life-rent thereof: this is called "the courtesy of Scotland." A widow enjoys the life-rent of one-third part of the lands over which her husband has died intestate, by way of

Tercer. The distribution of the property, personal or heritable, may be otherwise arranged by antenuptial contract, or equivalents to the property to which a party would succeed may be made by the settlements of the deceased.

On the dissolution of marriage by divorce [DIVORCE], the offending party forfeits whatever provisions, legal or conventional, he or she might be entitled to from the marriage, and the innocent party, at whose instance the suit of divorce is brought, retains whatever benefits, legal or conventional, he or she may have become entitled to by the marriage. It follows, that when the divorce proceeds at the suit of the wife, she obtains, at the date of the decree of divorce, the provisions which, as above, she would be entitled to on the death of her husband, and that, on the other hand, if the suit be at the instance of the husband, the wife not only loses her right to such provisions, but forfeits to the husband whatever property she may have brought into the goods in communion.

WILL AND TESTAMENT. Before the passing of the 32 Hen VIII. c. 7, commonly called the Statute of Wills, and the 34 & 35 of Henry VIII. c. 5, there was no general testamentary power of freehold land in England, but the power of making a will of personal property, appears to have existed from the earliest period. Yet this power did not originally extend to the whole of a man's personal estate, but a man's goods, after paying his debts and funeral expenses, were divisible into three equal parts, one

of which went to his children, another to his wife, and the third was at his own disposal. If he had no wife or no children, he might bequeath one half, and if he had neither wife nor children, the whole was disposable by will (2 Bl. Comm. 492, Fitzherbert, *Nat. Breve*, &c.). The law however was gradually altered in other parts of England, as in the province of York, the principality of Wales, and in the city of London, and lately by statute, so as to give a man the power of bequeathing the whole of his personal property. At present by the 1 Vict. c. 26, for the amendment of the law with respect to wills (whereby the former statutes there enumerated with respect to wills are repealed, except so far as the same acts or any of them respectively relate to any wills of *corpus pur autre vie* to which this act does not extend), it is enacted that it shall be lawful for every person to devise, bequeath, and dispose of, by his will, execution required by that act, all real and personal estate which he shall be entitled to at law or in equity at the time of his death. Great alterations have been introduced into the law of wills by this statute, but as it does not extend to any will made before the 1st of January, 1838, it is necessary to consider the law as it stood previous to the act.

In general all persons are capable of disposing by will of both real and personal estate who have sufficient understanding. The power of the king to make a will is defined by the 39 & 40 Geo. III. c. 88, s. 10. By the former statute of wills, married women, persons within the age of twenty-one years, and persons of nonsane memory were declared incapable of making wills of real estate. These disabilities were applied to a bequest of personal estate, except that infants of a certain age, namely, males of fourteen and females of twelve might dispose, by will, of personalty; and that by the 12 Car. I. c. 24, s. 8 a father under twenty-one might by a will attested by two witnesses appoint guardians to his children. But by the second section of the new Wills Act, no will made by any person under the age of twenty-one years is valid, and if

made by any married woman in England, except such a will as might have been made by a married woman before the passing of the new act. The capacity of a married woman is not absolute; she may make a will of her personal property if her husband consents to that particular will, and it will be revocable if he survives her. The validity of a husband's will depends upon the state of his mind at the time of making it. Persons born deaf and dumb are presumed to be incapable of making a will, but the presumption may be rebutted by evidence. Blindness and insanity alone do not produce incapacity. Gifts of lands by alien are at least void, the crown being entitled, after the funeral, to seize them in the hands of the devisee, as it might have done in the case of the alien during his life.

Previously to the late act the general law of testaments was subject to exceptions. Customary freeholds and copyholds were not within the Statute of Wills, therefore, unless where devolution by special custom, could in general be effected only by means of a surrender to use of a will. By the 5th Geo. III. 1792 the word of a surrender was supplied in cases where it was a mere form, the act did not apply to cases where there was no custom to surrender to the use of a will, nor to what are called customary freeholds. A devise or surrender of copyholds could not devolve by will, although in heir at law might, although were not devisable, nor were gifts of copy or action, nor contingent gifts when the person to be entitled had not married. Lands acquired after execution of the will also did not pass by it, but by section 1st of 1 Vict. c. 26, (now) of disposition by will extends to real and personal estate, and to all fees, interests, and rights to which the person may be entitled at the time of death, though acquired subsequently to the execution of his will. There is no restriction as to the persons to whom devise or bequest may be made except for the 34 & 35 Hen. VIII. c. 5, which forbids conveyance of lands to bodies politic and corporate. Exceptions to this statute have been introduced by

the 43 Geo. III. c. 107, and 43 Geo. III. c. 108, which authorize devise of lands to the governors of Queen Anne's Bounty, and for the erection or repair of churches or chapels, the enlargement of churchyards or of the residence or glebe for nonconformists of the Church of England. Alienage cannot be properly called an incapacity to take by devise, as the devised lands remain in the alien till office found, when they vest in the crown. By the 6 Geo. II. c. 30 no lands or personal estate to be laid out in the purchase of or charged on land can be given to any charitable use by way of devise. (Mortmain.) By the 40 Geo. III. c. 98, no disposition of property can be made by will or otherwise, so as to accumulate the income for a longer period than for twenty-one years after the death of the settlor, or during certain minorities. (Accumulation,) and by what is called the rule against perpetuities, no property can be settled by deed or will so as to be inalienable for more than a life or lives in being, and twenty-one years afterwards.

Before the 1 Vict. c. 26 wills of personal estate might even be nuncupative, that is to say might be declared by the testator without writing before witnesses, provided they were made in conformity with the directions contained in the 14th section of the Statute of Frauds. 29 Car. II. c. 3. A will of freehold lands of inheritance was required to be executed in the manner prescribed by the 5th section of the Statute of Frauds, which required it to be signed by the party devising, or by some other person in his presence and by his express direction, and to be attested and substantiated in the presence of the testator by three or more credible witnesses. The term "credible," which gave rise to much discussion under the old law, is omitted in the new act, and it is enacted in the 14th section that no will is to be void on account of the incompetency of any attesting witness. By the 15th section gifts to attesting witnesses or their wives or husbands are declared void. This is an extension of the 25 Geo. II. c. 26, which related only to wills which at that time required the attestation of witnesses, that is to say, to wills of real estate. The words as to

posed, not on account of circumstances personal to the object of the gift, but with a view to the circumstances of the estate, the gift is to be presumed vested. With respect to pecuniary legacies, some distinctions, borrowed from the civil law, are admitted which have to place as to real estate. One of these distinctions is that where futurity is annexed to the substance of the gift, the vesting is in the mean time suspended. But where the time of payment only is future, the legacy vests immediately. If however the only gift is contained in the direction to pay, this case is to be regarded as one in which time is annexed to the substance of the gift. When a future gift of a precise sum is coupled with a gift of the interest in the mean time, a strong presumption exists in favour of vesting. It is generally considered that a very clear expression of intention must exist in order to postpone the vesting of residuary bequests, on the ground that intestacy may often be the consequence of holding them to be contingent.

Great changes have been introduced in the law, as to the interpretation of wills by the above-mentioned 24th section of the act, which declares that wills are to be construed to speak as if they were executed immediately before the death of the testator, and the following clauses. The 25th section enacts that, unless a contrary intention appear on the will, a residuary devise shall include all estates comprised in lapsed and void devises. This alters the former law, whereby such estates devolved on the heir. The 26th clause enacts that a general devise of the testator's lands shall include copyhold and leasehold as well as freehold lands, unless a contrary intention appear. This also effects a considerable alteration in the law of devises. Formerly neither copyholds (unless surrendered to the use of the will) nor leaseholds would pass by a general devise of lands or other general words descriptive of real estate, unless the testator had no freehold lands on which the devise might operate. Since the statute of the 35 Geo. III. c. 192, which dispenses with the necessity of surrenders in certain cases, copyholds stand upon nearly the same footing as freeholds, in respect to

a general devise; but leaseholds are continued subject to the old rule of law. The 27th section, unless a contrary intention appear, a general devise of real estate and a general bequest of personal estate are respectively to include estates of property over which the testator has a general power of appointment. It was never considered necessary in the execution of a power of appointing real estate, whether general or special, to refer personally to the power. It was sufficient if the intention to exercise it appeared by a description of the property either by or by other means. If the testator had no other lands which answered the description, a general devise was held to be a good execution of the power. It was otherwise if he had any other lands which would satisfy the terms of the devise. The enactment appears to be when the testator has a general power of appointment. Where the power is limited or special, it seems that the rule of construction will still apply to personal property the same as before. There must be some reference to the power, on the somewhat technical ground that as any person may be supposed possessed of some personal estate, it was enough to make a general devise operative without reference to the property comprised in the power. With respect to devises, it seems that the rule must still prevail where the power is special or limited. By the 28th section a devise of real estate without words of limitation is, unless a contrary intention appear by the will, to be construed as if the fee. This clause introduces a considerable alteration of the law under which, in accordance with the doctrine that the heir was not to be inherited by implication, it was held that a devise of lands without words of limitation conferred on the devisee an estate for life only, notwithstanding the appearance of a contrary intention in other parts of the will. The 29th section enacts, that in any devise or bequest of real or personal estate the words "die without issue," "die without issue," or "have no issue," or any other words of this like import, shall be construed to mean a word or words of

WILL, ROMAN. A Roman will was called Testamentum. Testamentum was defined by the jurists of the imperial period to be "a legal mode of a man's declaring his intention in due form, to take effect after his death." The person who made such declaration was called Testator.

The power of making a Roman testament only belonged to Roman citizens who were sui iuris, a rule which excluded a great number of persons: those who were in the power of another, as sons not emancipated, and daughters in potestate, dumb persons, deaf persons, insane persons, and others, and, as a general rule, all women. The circumstances under which a woman could make a will were peculiar, and they would require a very particular statement. A male of the age of fourteen years complete, or less under some special incapacity, could make a valid will. A female, so far as respected age only, acquired this capacity on the completion of her twelfth year.

Originally Roman citizens made their wills at *Comitia Comitia*, which were held twice a year for this purpose. It is not said that these wills were made in writing, and it is here assumed that they were made at the *Comitia Comitia* only for the purpose of executing the same, although

the owner of a heretook to dispose of it in. As it was a substitute, he made at the same time a probable inference that it was the testament made at wanting that publicity, forms of testamentary in Canon, fell into disuse, and libram became the common form, by the formal purchase of the estate familiar in the place of the heret, when Canon arose, and Canon, the old form of composition was retained by the emperor, but a heret was a will to carry into effect. The formal testament out of regard to and the institution of necessary to the validity

The form of testimonies et librum is described 144. As in other acts as in this, there were full legal age witnesses are considered by writers to be the representative classes of the towns.

will took effect or not. If it was duly made, it rendered a former will of no effect, and if the second will did not take effect, the testator died intestate.

If a testator sustained a capitis diminutio after making his will, that is, if he lost any part of his status of a Roman citizen which was essential to give him a full testamentary power, the will became *irritum*, ineffectual. A prior will might become *Ruptum* by the making of a subsequent will, and such subsequent will might become *irritum* in various ways, for instance, if there was no heres to take under the second will.

Though a will became *Ruptum* or *irritum*, and consequently lost all its effect by the *Jus Civile*, it might not be entirely without effect. The *honorum possessio* might be granted by the *Prætorian* edict, if the will was attested by seven witnesses, and if the testator had a disposing power, though the proper forms required by the *Jus Civile* had not been observed.

The rule of Roman law which required heredes *sei* to be expressly exheredated applied to posthumous children. The word *Postumus* from which our word posthumous has come simply signified "last," and a child born after the date of his father's will was *Postumus*. If he was born after the father's death he would also be born after the date of his father's will and consequently would be *Postumus*. If a *sei* heres was born after the making of the will, and was not recognised as heres or exheredated in due form, the will became *Ruptum*. This rule of law was thus expressed: "*adgnoscendo rumpitur testamentum*." There were also cases in which a will might become *Ruptum* by a quasi-adgnatio.

A testament was called *Inofficiosum* when it was made in due legal form, but not "*ex officio pietatis*." Thus when a man did not give the hereditas or a portion of it to his own children or to others who were near of kin to him, and when there was no sufficient reason for passing them by, the persons so injured might have an action called *Inofficiosi Querela*. The persons who could maintain this action were particularly defined by the legislation of Justinian. If the *Testamentum* was declared by the competent

authorities to be *Inofficiosum*, it was reduced to the amount of one-fourth the hereditas, which was divided among the claimants.

The ground of the *Inofficiosi Querela* is explained by Savigny *System des heutigen Rom. Rechts*, ii. 127, &c. If the testator in his will passed over persons who were his nearest kin, it was presumed that such persons had merited the testator's disapprobation. If this was not so, it was considered that the testator had by his will done them a wrong, and the object of the action was to get rid of setting the will aside. The remedy, however, was the establishment of a compulsory character, to which the claiming of part of the testator's property was a subsidiary means. The expression *Testamentum Inofficiosum* occurs in Cicero and in Quintilian, but it is not known when the *Inofficiosi* theory was introduced.

A Roman codicil (*Codicilli*, for the word is not used in the singular) till a late period under the Empire was a testamentary disposition, but not of the full effect of a will. A heres could not be appointed or exheredated by a codicil; but codicills were effective as to bind a heres, already appointed in a will, to transfer a part of the hereditas to another. Codicills were in fact useless unless there was a prior or subsequent, which could be made either retrospectively or prospectively (Gaius, ii. 270, *Dig.* 29. ut s. 8, *Pliny*, *Ep.* ii. 16, which are sometimes misunderstood).

Codicills were originally informal writings, it was only necessary to prove that they were by the testator. Later legislation required that they were in writing to have five witnesses who subscribed their names to the codicill.

The subject of Roman wills is of considerable extent, and it involves questions of considerable difficulty. The principal authorities have been mentioned in this article, to which may be added *Opus Fragmenta*, tit. 20, *Dig.* 28, ut s. 29, tit. 1, &c., *Code*, 6, tit. 37. *De Testamentis*, *Donationibus*, *Zosterhoffs*, *Lehrbuch des Röm. Rechts*, article by Baudry on a

any inscription which contains a will. The date of the will is 662 or A.D. 100, in the twelfth of Trajan.

L. Scotland. The right of be-
in Scotland is confined to moveable
and real property. It does not extend
to real property which can-
be made and tenements, fixtures,
appurtenances of a family habitation
as the pictures, plate, and library)
are called "heirship moveables,"
machinery in mines and manu-
factories, the stock on farms, and every
other of security or other right
any of these kinds of property
may be made of heritable
in the manner which will be
be told below, but it is a principle of
great importance, and one the
of which is often productive of
most serious consequences, that no
will can be made in the form
will. All persons of sound mind
the age of puberty (14 in males,
12 in females) may execute will;
persons under guardianship, or women
who have co-tutors may do so
at the consent of their guardians.
Very lately the will of a bastard
infected, and the moveable goods
of a person, dying to the crown on
bath, were distributed by a gift in
power; but this peculiarity has been
abolished by 6 & 7 Wm IV. c. 22. A
"simple" or "innocent" will, if attested
in presence of two witnesses who bear
any to it, is valid to the extent of
three hundred pounds Scots, or 100 l. sterling,
and if the bequest should ex-
ceed that sum, the legatee may recover
the extent of the hundred pounds.

A will, sufficiently formal in all
to prove its terms and its date,
is executed in the following manner.
The grantor's usual signature must
be at the end, and, if there be more
than one sheet, on each sheet the usual
signature is to sign each page. Any inter-
ference on the margin must have the
word "inter" or the initial letter of it
and the surname or its initial
below. He must either sign in the
presence of, or show and acknowledge
the inscription to, two witnesses, who

must be males, above fourteen years old.
The witnesses sign the deed at the end,
each putting after his name the word
"witness." The will must terminate with
"a testing clause," setting forth that the
grantor has signed the deed in presence
of the witnesses, who are named and so
designed as to be distinguishable from
other persons, at a certain place on a
certain day. The testing clause must
contain the name and description of the
writer of the deed, the number of pages
it consists of, the number of words written
in cursive or interlined, and the number
of marginal notes. There are some of
these formalities of which the absence is
fatal to the deed—others in which it will
throw the deed pro tanto on the holder.

Where the will is holograph, or written
by the grantor himself, it does not require
to be attested, but if it be not attested, it
in the first place does not prove itself to
be holograph, and the statement that it
is in the handwriting of the grantor must
be proved by extrinsic evidence to be
true, and, secondly, it does not prove its
own date, and if there be any other com-
peting title, it will be presumed to have
been granted at such a time as will give
that title the preference. If the party
cannot write, he can execute a will
through a notary, who receives authority
in presence of two subscribing witnesses
to sign for the testator, and describe the
transaction in his return document. A
clergyman of the Established Church of
Scotland may act as a notary for the
signing of a will. It is usual to nominate
an executor of the will, but it is not
essential to do so, and if there be no one
named, an executor is supplied by opera-
tion of law. Wills executed by persons
domiciled out of Scotland, if they be ac-
cording to the form which would carry
such property in the place where they
were executed, will be effectual to convey
moveable property in Scotland, but no
will, whatever be the law of the place
where it is made, can dispose of heritable
property in Scotland. The last dated
will is the effectual one, and all others
are considered as revoked by it in so far
as they are inconsistent with it.

The peculiar features of the law of Scot-
land out of which arises the circumstances

that heritable or real property cannot be bequeathed is, that no deed conveying such property is effectual unless it be expressed in what are called "dispositive terms," or terms making over the property at the moment of the signing of the deed. Thus the terms "I grant, convey, and make over," are sufficient to carry heritable; but the terms "I leave and bequeath" are not. The peculiarity arose during the time when the holder of a fief could not part with it to another person unless that person were accepted as a vassal by the feudal superior. A conveyance not intended to take effect until after the cedent's death did not admit of the superior's using his privilege, and the method of creating a settlement of landed property was constructed on the forms by which the feudal usages were gradually adapted to the conveyance of land from a seller to a purchaser. A deed of settlement relating to landed property must thus be essentially a conveyance *de presenti*, but to accomplish the purposes of a virtual bequest, the following methods have been adopted by conveyancers. 1, the grantor may convey to himself, with a "substitution" or remainder to his destined successor, 2, he may grant a direct conveyance, reserving to himself the life-rent, 3, he may grant such a conveyance, reserving power to alter. It is of the nature of a conveyance of land that to be effectual, delivery of the deed to the assignee, or an equivalent, must have taken place, and thus a settlement of land to be effectual after the grantor's death must have been delivered to the person favoured by it, or some one for his behoof, or must have been entered in a public register, or must contain a clause dispensing with delivery. The formalities above mentioned as necessary to the execution within Scotland of wills carrying moveables are necessary to settlements conveying heritable property in Scotland, but with this difference, that in the settlement of heritable property, if the party cannot write, the deed must be executed by two notaries before four witnesses, and in this case a clergyman cannot act as notary. To be an effectual deed, a settlement of landed property must also contain authority for

completing the feudal title to the property and this authority will vary with the nature of the holding. When however there is an effectually attested deed containing in clear terms a conveyance *de presenti*, although the formalities necessary for completing the feudal title may be omitted, and it be thus made itself to carry the estate, it is a right of action to compel the heir to make it over. If the heir at law be upon the deed, he is by that act bound to make good its provisions in favour of other persons. Thus, if the deed be in the form of a bequest, and is itself capable of carrying heritable, or moveable property to the heir who would not have otherwise taken it, he is bound, if he take advantage of it to fulfil its destination of the act. No settlement of heritable property by the provider of the last will can be validly granted on a death-bed. The elements are necessary to constitute a legal exception of death-bed, that the grantor was ill of the disease of which he died when he granted the deed, that he died within sixty days of executing it, and, 3rd, that he died not in church, or to a market, unless during the sixty days. The Act IV. & 1 Vict. c. 26 and the enactments relating to wills in England do not apply to Scotland.

WINE AND SPIRIT TRADE. The consumption of wine and spirits in the United Kingdom amounts in round numbers to about 25 million gallons, of which, about 9,000,000, is supplied above one-sixth of the whole nation. The average consumption of wine of all kinds is about 6 million gallons, though in some years it has fallen more than this quantity. Of foreign and colonial spirits the annual consumption is about 14 million gallons, and of British spirits about 20 million gallons. Though in 1841 it fell below this quantity from various causes. The stock of wine in bond is usually equal to two years' consumption. In January, 1843, the quantity of wine in bond in the port of London was 1,000,000 gallons, and there were 44,000,000 gallons at the outports. At the same date there were 6,921,200 gallons of foreign and

total spirits in bond, of which 3,500,372 were in London, and 2,301,517 at ports.

The rate of duty on wines and spirits has produced influence on the consumption.

In 1700 the average consumption of wine in England was nearly one gallon per head, whereas it is now less than a fifth of a gallon. Prior to the Revolution duty on wine consumed in this country was almost entirely the produce of France, but although the duty on French wine was equalled in 1801, there must have been only amounts to one gallon per head, and in France the consumption of wine is 10 gallons per head, and in Holland, with moderate seas, the consumption of French wine is 10 gallons per head. Mr. Perceval states in his 'Principles of the Nation' that there is more wine produced in France better suited to the English taste than the much which is usually drunk here, and that they could be imported at sixpence a bottle without duty. If an equal quantity of less quality and flavoured could be sold at a retail at one shilling the bottle, the consumption would certainly be very great, for the duty alone is at present less than a shilling a bottle, and the expense of the bottle is the consumption of wine was chiefly confined to them the last class. But here is the consumption in England, and it would pro-

bably continue to be so, if wines were as cheap in England as in France. The present duty on all foreign wines is 5s. 6d. the gallon, the duty on Cape wines is 3s. 6d. the gallon. The number of gallons of foreign wines retained for home consumption in the year ending January 5, 1845, was 2,807,531, of which 2,807,531 were Portugal wines, 1,470,000 were Spanish wines, and 177,780 were French wines, the rest were Cape, Madag., and other sorts. An interesting illustration of the effect of high duties in checking consumption, it may be stated that the duty of 2s. 6d. on foreign spirits was less productive than the duty of 11s. 6d. in 1801, though if the rate of consumption had followed the increase of population, the duty would have been 24s. 6d. more than the amount actually received. The present rates of duty on Scotch spirits are from 50 to 100 per cent., on Irish and Scotch corn spirits (whisky) about 200 per cent., and on Irish and Scotch malt spirits (whisky) 300 per cent. and upwards. By the last Tariff Act the duty on foreign spirits is reduced to 15s. the gallon, the duties on colonial spirits on home consumption, and on foreign wines were not altered by it. The number of gallons, valued at export, of foreign and colonial spirits, of all sorts, retained for home consumption, was—

Year	England	Scotland	Ireland.	United Kingdom.
1842 . . .	3,009,642	71,927	29,541	3,111,110
1843 . . .	2,911,500	71,820	28,478	3,011,800
1844 . . .	3,134,320	78,162	30,114	3,242,600
1845 . . .	3,431,414	84,476	33,707	3,549,600

in the year ending January 5, 1845, quantities of foreign and colonial spirits retained for home consumption

	Gallons.
Rum . . .	2,100,532
Brandy . . .	1,021,271
Genever . . .	14,064
Other sorts . . .	6,077
	3,242,000

For many years the number of distillers in England has not exceeded twelve. In six distillers in London and the

vicinity paid 1,060,269 duty out of 1,420,525, the total amount of duty paid by distillers in England. The number of distillers in Scotland in the above year was 216, and there were 87 in Ireland, but the number of distillers in England, Scotland and Ireland is a proof of the different tastes of the people in each country. In England in 1845 there were 108 distillers in Scotland, and in Ireland 8. Very little brandy is now consumed either in Scotland or Ireland, the pure home spirit without any artificial flavouring being preferred. Nearly the whole of the spirit distilled

in England passes through the hands of the rectifier, who, by the addition of various ingredients, produces the compound called gin, and above 500,000 gallons of English spirit are flavoured in imitation of French brandy.

Malt and unmalted grain together are used in the English distilleries, six-sevenths of the Scotch spirits are made from malt, and the remainder from malt and unmalted grain, in Ireland about a tenth is from malt, and, with the exception of a few hundred gallons from potatoes, the remainder is from malt and unmalted grain. Of the British spirits consumed

in 1845 the number of gallons of malt only was 1,068,351, the number of malt with ingredients 16,453,821 having been the number of malt with ingredients. The number of gallons made in 1845 only was 2,106,157 in Scotland 76 in England, and 502,721 in Ireland. The duty was 7s. 10d. per gallon of Irish spirit, 3s. 6d. on Scotch spirit, 2s. 6d. on Irish spirit.

The number of persons engaged in various trades of distilling, rectifying, and retailing spirits, in 1840, was as follows—

	England	Scotland.	Ireland.
Distillers and rectifiers	106	216	113
Dealers and retailers	2,922	452	264
Retailers—persons rated			
Under 10l.	15,431	10,364	11,054
10l. and under 20l.	19,672	4,112	2,073
20 " 25	3,203	321	287
25 " 30	2,120	174	129
30 " 40	3,684	297	271
40 " 50	2,349	86	144
50 and upwards	6,022	246	27

The dealers in foreign wine in the same year were as follows—

	England	Scotland	Ireland
Not being dealers in spirits or beer	1,793	28	173
Dealers in beer but not in spirits	44	31	252
Dealers in wine, spirits, and beer	22,113	2,400	1,264

	England.	Scotland.	Ireland.
Passage vessels with retail licenses	254	5	5

The following table, showing the consumption of British spirits in 1845, during the present year, abridged from vol. iii. of *Porter's Green of the Nation*—

	England. galls.	Scotland. galls.	Ireland galls.	Total galls.
1802	2,464,300	1,158,558	4,715,024	8,337,882
1812	3,522,970	581,524	4,877,201	8,981,695
1821	4,125,616	2,385,465	3,311,462	9,822,543
1831	7,451,917	5,716,085	2,711,672	15,879,674
1839	7,959,890	6,259,711	12,179,342	16,398,943
1841	8,116,985	7,401,205	6,427,443	21,945,633
1842	7,956,554	5,595,186	5,805,120	19,356,860
1843	7,724,051	6,511,728	5,555,483	19,791,262
1844	8,231,440	6,922,548	6,651,137	21,805,125
1845	9,077,281	6,441,011	7,611,196	23,129,488

In 1841 the consumption of British spirits was at the rate of 1701 gallons per head in England, 224 gallons in Scotland, and 1799 gallons in Ireland. Before the commencement of the temper-

ance movement in Ireland the consumption in that country was 1799 gallons per head. The quantity charged with duty in Ireland for 1845, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 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power, from the discharge of public functions, and from many other things that can only be done by mingling with men, out of doors is nearly universal, and it is founded on sufficient reasons. The difference of sex is the cause, and the necessary cause, of this almost universal practice. In some nations the principle of hereditary succession allows a female to take in course of descent the regal power and title. In some nations females are excluded. In a constitutional government where the administration is conducted by responsible agents of her who has the regal power and title, there seems no reason why a female should not exercise the kingly office as well as a male. In a monarchy properly so called, where the monarch is absolute, the administration of a woman is perhaps more likely to be bad than that of a male, though the reasons for excluding women from a participation in political power generally do not apply in their full extent to exclude a woman from exercising sovereign power.

Married women and unmarried women are not in the same condition in any country. The married woman by consenting to live with a man subjects herself to a control which is very different from that of a father or guardian. The purposes of marriage are among others the union of the sexes, the consequence of which is the procreation of children. The husband claims the exclusive possession of his wife's person, and obedience to his reasonable commands, which in general his superior strength enables him to enforce. It is the condition of married women in different countries which is comprehended under the term "condition of women" rather than that of unmarried women—and their condition comprehends the power of the husband over their person, over the children of the marriage, and over the property which the wife has at the time of marriage or may acquire during the marriage. In all these matters the positive law of different nations varies very much.

But it would be a great mistake if we were to judge of the condition of women in any country simply by viewing the positive rules of law as evidence of their

condition. There are many things in the relation of husband and wife, parent and child for which no positive law has ever attempted to provide. These matters are governed by the positive morality, that is, by the usages and habits of any society. It would not follow that positive law gave women more power; they would also receive more respect and tender consideration from the stronger sex. On the contrary, if the two sexes were placed on the same footing by positive law, so far as it could be done, it would contradict the constitution of nature as indicated by the difference of sex, and would rather tend to deprive the female of the respect and consideration which she receives in most countries. There is some mean between the absolute subjection of the wife to the husband, and the perfect equality by law, which appears to be most in harmony with the physical differences of sex, and best adapted to maintain a system of positive morality that shall conduce to the happiness of both.

As to unmarried women, so long as they are under parental authority, they are regarded in the relation of parent and child for maintaining the person of the parent by positive law to a certain extent, and positive morality supplies what law leaves defective. As women are unmarried expect to marry some time, or at least may marry at any time, that in all nations in which any regard is set on the chastity of women, they are that very opinion excluded from all military life, which would require them to mix freely with the other sex. If a woman were a soldier or a sailor or followed any other occupation which required her to mingle with men, as she could not preserve a reputation for chastity, and if she did preserve her chastity she would not have the credit of it; there are any branches of industry in which the males and females freely mix, and there are such. It is a necessary consequence that the regard for the chastity of the females must be enforceable, and in many cases the opinion will be correct. Laws might be made of indifference to the chastity of women, and they might still be able to get on

whole of the possessions except advowsons and small revenues of the crown in England, Ireland (10 Geo. IV. c. 50, s. 8), and Scotland (2 & 3 Will. IV. c. 112, s. 3 & 4 Will. IV. c. 65), are under their management, but the property therein still remains in the crown (1 Q. B. Rep., 352). They are required to observe all the orders and directions of the Lords of the Treasury touching the exercise of their powers (2 Will. IV. c. 1, s. 3).

The Commissioners have the power of appointing and removing various officers, such as receivers, surveyors, &c., whose salaries however are fixed by the Treasury (10 Geo. IV. c. 50, s. 12). They may also appoint stewards of the royal hundreds and manors to hold courts, and different ministerial and forestal officers to preserve game, fish, &c., and they may grant licences to hunt, fish, &c. (Id., s. 14).

They are empowered to grant leases of any part of the crown possessions for thirty-one years (10 Geo. IV. c. 50, s. 22), or, in case of houses, buildings, &c., or building land, for ninety-nine years (Id., s. 23), but this power of leasing does not extend to the royal forests in England (Id., s. 25), except for the purpose of making railroads (Id., s. 27). The leases must contain certain specified provisions, and the leases are not to be made disposable for waste, except in leases of mines, and at the option of the Commissioners, in leases for ninety-nine years (Id., s. 27). The leases are to be granted at a rack-rent, and no fine is to be reserved (Id., s. 28), except in building-leases, in which a nominal rent may be reserved for the first three years (Id., s. 30), and a fine may be taken not exceeding one-third of the rent (Id., s. 31).

They may also sell any part of the crown possessions, except the forests (Id., s. 34), according to a mode pointed out (s. 35), and they may also sell rents, or ministerial or forestal rights, to corporations, or trustees of incapacitated persons, who have estates subject thereto (ss. 39, 40).

They may exchange or purchase lands, &c. (Id., ss. 42, 52, 98).

They are declared to be exempt from

all personal responsibility as to any contracts which they may enter into in their official character (Id., s. 1).

All deeds relating to lands, &c. leased, &c., by the authority of the Commissioners are required to be enrolled in the Office of Land Revenue Records and Instruments (10 Geo. IV. c. 50, s. 63, s. 70, s. 71, s. 72, s. 73, s. 74, s. 75, s. 76, s. 77, s. 78, s. 79, s. 80, s. 81, s. 82, s. 83, s. 84, s. 85, s. 86, s. 87, s. 88, s. 89, s. 90, s. 91, s. 92, s. 93, s. 94, s. 95, s. 96, s. 97, s. 98, s. 99, s. 100, s. 101, s. 102, s. 103, s. 104, s. 105, s. 106, s. 107, s. 108, s. 109, s. 110, s. 111, s. 112, s. 113, s. 114, s. 115, s. 116, s. 117, s. 118, s. 119, s. 120, s. 121, s. 122, s. 123, s. 124, s. 125, s. 126, s. 127, s. 128, s. 129, s. 130, s. 131, s. 132, s. 133, s. 134, s. 135, s. 136, s. 137, s. 138, s. 139, s. 140, s. 141, s. 142, s. 143, s. 144, s. 145, s. 146, s. 147, s. 148, s. 149, s. 150, s. 151, s. 152, s. 153, s. 154, s. 155, s. 156, s. 157, s. 158, s. 159, s. 160, s. 161, s. 162, s. 163, s. 164, s. 165, s. 166, s. 167, s. 168, s. 169, s. 170, s. 171, s. 172, s. 173, s. 174, s. 175, s. 176, s. 177, s. 178, s. 179, s. 180, s. 181, s. 182, s. 183, s. 184, s. 185, s. 186, s. 187, s. 188, s. 189, s. 190, s. 191, s. 192, s. 193, s. 194, s. 195, s. 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and justices in eyre (which were abolished upon the termination of the then existing statute by 57 Geo. III. c. 61), are vested in the First Commissioner (10 Geo. IV. c. 50, s. 47), and the commissioners are thus empowered to make compensation parties for old encroachments made upon the royal forests where they have been in an undisturbed possession for ten years (Id., s. 26).

The verderers of the royal forests are also required to make inquiry as to all unlawful inclosures, encroachments, &c., in their courts of attachment, and may impose fines upon the offenders (Id., s. 100), who may however be proceeded against by the ordinary course of law (s. 101). The verderers may appoint rangers, under foresters, and other officers of the forests and courts (s. 101), and may inquire into their conduct, and fine them for neglect of duty (s. 102). Other penalties may be recovered before a justice of the peace (s. 104), and all such fines and penalties are to be applied to the expenses relating to the forests (s. 105).

As to the general revenue arising from the letting, &c., of the crown lands, the commissioners are directed to pay in the moneys received by them, to a proper account with the Bank of England and Ireland respectively (10 Geo. IV. c. 50, s. 117, 118), and the chartered banks of Scotland (3 and 4 Will. IV. c. 62, s. 17), and the annual income after certain deductions is to be carried to the consolidated fund (10 Geo. IV. c. 50, s. 113, 3 & 4 Will. IV. c. 62, s. 16). The transfer of the revenue arising from the crown lands to the consolidated fund is however the subject of a special arrangement between the crown and the subjects, terminating with the life of the king or queen regnant (in whose reign it is made).

The 10 Geo. IV. c. 50, contains some provisions peculiar to Ireland. Leases, grants, &c., of any of the small branches of the royal revenue s. 128, and the powers appertaining to the chancellor and council of the Duchy of Lancaster (s. 131), are exempted from its operation.

The real property of the crown may be thus classified:

1. Honours, manors, and hundreds, not in lease.

2. Other lands in the occupation of the crown, either for the personal convenience of the king or for the public service.

3. Forests, chaces, and wastes.

4. Lands, tenements and hereditaments, held of the crown by lease.

5. Fee-farm rents, issuing out of lands, tenements, and hereditaments, held of the crown in fee-simple.

Of the first, fourth, and fifth classes it would be impossible to attempt any particular enumeration, the fourth consisted, at the time of passing the statute 26 Geo. III. c. 87 (A.D. 1786), of about 130 manors, 52,000 acres of land in cultivation, 1800 houses in London and Westminster, and 450 houses and other buildings in other parts of England, exclusive of houses demised with markets or forests.

The second class comprises the following royal palaces and houses—Buckingham Palace, St. James's Palace, the Pavilion at Brighton, Windsor Castle, the palace of Hampton Court, Kensington, and Whitehall, the King's House at Winchester, the palace at Greenwich (converted into an hospital for seamen), Somerset House (used as public offices), the palace of Westminster, Westminster Hall, including the houses of parliament and courts of law. The following palaces and buildings have been pulled down and their sites used for other purposes:—Carlton House, the Mews, Newmarket Palace. The following parks are also included in this class—St. James's, Hyde, Bagshot, Bushey, Greenwich, Hampton Court, Richmond, and Windsor.

In the third class are included not only the royal forests which have preserved their *jura regalia*, but several national forests and chaces, warrens, wastes, &c. The following is a list of the real forests:—In Bucks, Marston, and Wals, Windsor Forest, in Essex, Waltham Forest, in Gloucestershire, the Forest of Dean, in Hampshire, Beaulieu Forest, New Forest, and the Forest of Wootton Bassett, in Northamptonshire, Hockingham, Wattlewood, and Salcey Forests, in Northamptonshire, Sherwood Forest, in Oxfordshire, Wharfedale Forest.

There has arisen incidentally out of the proper duties of the department of Woods and Forests, since it was united

with the Board of Public Works, the important office of providing public walks and access to the national buildings and gardens. This branch of administration has only been recognised of late years and perhaps we owe it to our intercourse with the Continent, and especially with France that it has been at all acknowledged. Twenty years ago Hyde Park and Kensington Gardens were the only public places of recreation open to the crowded and hard-worked population of London, since then, beside the improvements to those two places, and the formation of new streets and squares in those parts of the metropolis of which the land either belongs to the crown or has been just leased by parliament for public improvements, there have been opened the large gardens of St. James's Park and the Regent's Park, Prince's Hall, at the south-east of the Regent's Park, and a large piece of land at the north-east end of London, called 'Victoria Park,' have been purchased for public convenience. The palace and grounds of Hampton Court have been repaired and ornamented, and have been thrown open gratuitously to the public, and the collection of pictures has been arranged for all this the nation is indebted to the department of Woods and Forests.

WRIT. [TANIST.]

WORKHOUSE. [POOR LAWS.]

WOUNDING. [MAYM.]

WRECK. [FRANCHISE, RUTS, p. 704.]

WRIT, a law term, which in its proper signification means a *writing* under the king's seal, whereby he confers some right or privilege, or commands some act to be done. Writs are either *patent* (open, commonly called *letters patent*, *litera patentes*, which are not sealed up, but have the great seal attached to them, or *close* (*litera clausa*), which are, or are supposed to be, sealed up. The former are addressed to all persons indiscriminately, generally in these terms—“To all to whom these presents shall come,” the latter are directed to some officer or other individual. Of the former kind is the creation of a peer by patent, which is a royal grant of peerage; of the latter, the creation of a peer by writ, which is a

summons to attend the house of peers by the style and title of some *barony*.

Writ in its ordinary and proper sense is a term applied to a process issued or directed by the king, which are divisible into original writs, and original writs with some extent to Chancery, and give authority to courts, in which they are respectively practised with the same judges were awarded by those courts, which the king is already judging. These are again divided into *main* and *judicial* writs, which now, except in the few actions still preserved, have been superseded by the writ of *assumpsit*, and contain a *brief* statement of the possible alleged cause of action; and another was called in law Latin *breve in law*, French *brief*, and this term was afterwards applied to judicial and other writs. Original writs issuing from Chancery were always witnessed or sealed in the name of the king. Judicial writs were from that time of the superior common-law courts in which the original writ was more returnable, and were issued in the name of the chief judge of such court. In cases where the plaintiff seeks to recover a sum under 40s. he may bring his suit in the county court, or court-baron in which no royal writ is necessary, or the writs therein commenced, not by original writ, but by *plaint*, which is a statement of the party's cause of action, the nature of a *declaration*.

There are many kinds of writs, some of the more important of which may be here mentioned. There is the writ to the sheriff of a county to elect a member of the House of Commons, in case of a vacancy or general election, which issues upon the warrant of the Lord Chancellor or secretary of state, or speaker of the House of Commons. The writ of *habeas corpus ad subjungendum*, which is directed to any person who detains another, commanding him to produce the body of the prisoner at such time and place, together with the causes of his capture and detention, to be examined, and receive *ad faciendum et prosequendum, et recipiendum* whatever the court or judge by whom the writ is awarded shall think fit. (Magna Charta, Tit.

some other writs of *habere corpus*, for the purpose of bringing up prisoners charged in execution, to give testimony; the writs of *subpoena ad testandum*, by which a party is commanded to appear at the trial of a cause, and of *subpoena duces tecum*, by which the party is commanded to bring certain specified documents for the purpose of the trial. There is also writ of *subpoena in equity*, whereby a defendant in a suit is commanded to appear and answer the plaintiff's bill. A defendant privileged from the jurisdiction of the court is not exempt before other tribunals, is entitled to a writ of *habeas corpus* by which the court is required to discharge the defendant. In modern times a party is allowed his privilege of suing out any writ of privilege from the Judge, Mr. Anthony Tzellar contains a great variety of writs.

WRIT OF ERROR. There may be writ of error for an alleged mistake in the proceedings of a Court of Record. The writ may be for matter of fact or of law. In the case of an alleged error in fact, a writ is addressed to the court which has given the judgment and the question of the record is left to it. In the case of an alleged error in law, a writ of error must be moved out of the common law side of the Court of Chancery and it is addressed to the Chief Justice of the Queen's Bench or Common Pleas, the Chief Justice of the Exchequer, or of which court it is alleged that the error has been made. The writ comes to the Chief Justice of the court in which the error is alleged to have been made and a copy of the record to the court is sent. It is customary to send a copy of the record to the court in which the error is alleged to have been made. If the error is in any judgment of the Queen's Bench, Common Pleas, or Exchequer is returned only before those of the two courts in which the error has not been made. (1 Wm. 70.) and there is no writ of error from the Exchequer Chamber except from the House of Lords.

It is also stated that there is a writ of error from the House of Lords to the Queen's Bench and from that to the House of Lords.

WRIT OF INQUIRY. In cases where a plaintiff seeks to recover a specific chattel (as in the action of *Detinue*), or a specific sum of money (as in *Debt*), if the defendant admits judgment to go against him by default, this is considered an admission that the plaintiff is entitled to what he claims, and the judgment therefore is final in the first instance, provided the plaintiff is content to take a small nominal sum for the damages resulting from the detention of the chattel or the debt. But where a plaintiff only seeks to obtain damages for injury to his person or his real or personal estate, or for the non-performance of a promise, if the defendant takes judgment by default, this though an admission that the plaintiff has a cause of action, does not operate as an admission of the amount of damages to which he is entitled; and such judgment is called *interlocutory*. In such cases, and also where the plaintiff seeks to recover substantial damages for the detention of a chattel, or of a debt, the intervention of a jury is required in order to ascertain for what damages the plaintiff is entitled to have final judgment. For this purpose a judicial process, called a *writ of inquiry*, issues to the sheriff commanding him to summon a jury to inquire what damages the plaintiff has sustained. If the plaintiff offers no evidence before the jury, a verdict must be found for nominal damages, as a sentence of some damages is admitted.

When the *inquisition* for finding of the jury, is returned, the plaintiff is entitled to judgment for that amount. In some cases where the amount of damages is readily ascertainable, as in actions upon bills of exchange, upon covenants for the payment of a certain sum, and the like, the court, instead of directing a writ of inquiry, will refer the matter to one of its officers to compute the amount of principal and interest due to the plaintiff, for writs of inquiry are merely to determine the amount, who may assess the damages themselves, if they think proper, after an interlocutory judgment has been obtained.

WRIT OF SUMMONS. (Writ.)

WRIT OF TRIAL. All trials of causes in the superior courts took place formerly either at bar before the whole court, or at *non prius* before one of the judges of the court, or a judge or serjeant named in the commission of assize; but now, by the 3 and 4 W. IV., c. 42, s. 17, in any action depending in any of the superior courts for any debt or demand in which the sum sought to be recovered and indorsed on the writ of summons shall not exceed 20*l.*, the court, or a judge (if satisfied that the trial will not involve any difficult question of fact or law), may order the trial to take place before the sheriff of the county where the action is brought, or some judge of an inferior court, and for that purpose a writ shall issue, called the Writ of Trial, directed to the sheriff or such judge, commanding him to try the cause before a jury, and to return such writ with the finding of the jury thereon indorsed. The statute applies only to actions for a debt or demand indorsed on the writ of summons; it does not therefore extend to cases where the action is brought for a wrong, or where the demand, being for unliquidated damages, the amount claimed cannot properly be indorsed on the writ of summons (1 Mann and Gra 850). The proceedings under the writ of trial, when directed to the sheriff, usually take place before him under sheriff or other his deputy, and they are conducted in the same manner as at a trial at *non prius*, and the court will grant a new trial for the same causes as if the trial had been before one of the superior judges; but a new trial will not be granted upon the ground that the verdict is against the evidence, where the amount of such verdict is less than 5*l.*, unless such verdict be manifestly *perverse*.

WRITER, in Scotland, is a term of nearly the same meaning as attorney in England, and is generally applied to all legal practitioners who do not belong to the bar, although it has of late become customary to substitute for it the term solicitor. As special exceptions, the body who in Edinburgh enjoy, concurrently with writers to the signet, the privilege of conducting cases before the Court of Session, the Court of Justiciary, &c., are

called solicitors of supreme courts (abbreviated S. S. C.), and the practitioners before the sheriff court of Aberdeen, by local custom called advocates. In each county there is generally a society of writers privileged to practise in the sheriff court and in the other local courts, who frame their own bye-laws and regulate the terms of admission to their body. Individually, they are responsible for their conduct to the judges before whom they practise, as bodies they are, on the one hand, protected from the infringement of their privileges by unlicensed persons, and, on the other, liable to judicial control if they attempt unduly to restrict the means of admission to the privileges.

WRITER TO THE SIGNET (abbreviated W. S.), is the designation of the members of the most numerous and important class of attorneys or practitioners in Scotland. The writers to the signet enjoy, in common with the solicitors of supreme courts, and with one or two smaller bodies, the privilege of conducting cases before the Court of Session, the Court of Justiciary, and the Court of Teinds. Their peculiar privilege, however, is that of preparing the writs which pass the royal signet. The signet was a seal or die under the control of the secretary of state, with which the writs by which the king directed parties to appear in court, or ordered them to do the decrees given against them, and other executive instructions, were stamped for the sake of authentication. In the sixteenth century, the persons who were entitled to present the writs which received the impression of the signet were supposed to have been the clerks in the secretary of state's office, and it is not known how or precisely at what time the persons who transacted this department of official business became converted into a body of private practitioners. Since the union of 1707, the signet has been under the disposal of the Court of Session; but down to about the middle of the last century the keeper of the signet was deputed by the secretary of state for the home department. Since that time it has been appointed under the great

by which they are known, is a corruption of buffeters, from their having been stationed in state banquets at the buffet or sideboard. During the long war consequent on the French revolution, and whilst this country was threatened with invasion, there was embodied in almost every county a mounted force under the name of Yeomanry Cavalry. It was subject to the same regulations, when on service, as the militia, and consisted of volunteers, of whom a large proportion were gentlemen or wealthy farmers: they were mounted and in most respects equipped at their own expense, but they received pay whilst in actual service, and there was some small allowance made by the crown towards the regimental expenses, such as the permanent pay of non-commissioned officers. They were commanded by the lord-lieutenant of the county, who granted commissions to the subaltern officers.

The first act for embodying corps of volunteers was passed in the spring of 1794 (14 Geo. III. c. 31). It enacts that all persons who may, during the war then raging, voluntarily enrol themselves under officers holding commissions for that purpose from the king or from the lieutenants of counties, shall be entitled to receive the pay, and shall be subject to the same discipline by courts martial, composed of volunteer officers, as troops of the line, if, on being called upon by the king in case of actual invasion or appearance of invasion, they shall march out of their own counties or assemble within it to repel such invasion, or if they shall march at the command of the king or of the lieutenant or the sheriff of the county to suppress riots or tumults within it or the adjacent counties. The

act exempts volunteers from the militia: it gives power to magistrates to label the non-commissioned officers and drummers on tavern-keepers, and grants to commissioned officers a right to half pay, and to non-commissioned officers the benefit of Chelsea Hospital if they are disabled when on actual service.

In the year 1798 another act was passed (38 Geo. III. c. 51), to facilitate the training of volunteer corps of cavalry who are called in the title to the act though not in the body, "yeomanry cavalry." It authorizes the billeting of the privates when called out to be trained, and it exempts from taxation the horse used in the service. After the short peace in 1802, the provisions of the preceding acts were renewed (42 Geo. III. c. 65) and the existence of the volunteer corps of cavalry (called by this act for the first time "yeomanry cavalry," was revived or continued, without reference as in the previous statutes, to the then existing war.

Of late years, although many of these yeomanry regiments still exist, they are rather maintained for the purpose of amusement and good fellowship than for any practical service.

According to a Parliamentary Return there were, in 1836, 338 troops of yeomanry cavalry, including 1175 officers and 18,120 men, at a cost of about 100,000*l.* a-year to the nation. In 1839 the number of troops was reduced to 251, and the privates to 13,591. Between the years 1816 and 1838, the average annual expense of maintaining the yeomanry corps was 128,000*l.* the gross cost being in the years 1820, 1821 and 1822, when the annual average exceeded 192,000*l.*

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